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7/27/11  
Notice of Judgment Nos. 36-37.



Issued January 30, 1909.

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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### NOTICE OF JUDGMENT NOS. 36-37, FOOD AND DRUGS ACT.

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(N. J. 36.)

#### MISBRANDING OF CANNED APPLES AND BLACKBERRIES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 100 Cases of Tepee Apples and 172 Cases of Tepee Blackberries, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending, and finally determined on October 23, 1908, in the district court of the United States for the western district of Missouri, wherein C. H. Godfrey & Son, Benton Harbor, Mich., were claimants. The apples and blackberries were misbranded within the meaning of section 8 of the aforesaid act, for that the cans containing them were labeled, respectively, "Tepee Apples, Packed by C. H. Godfrey & Son, Benton Harbor and Watervliet, Michigan," and "Tepee First Quality Blackberries. Packed by C. H. Godfrey & Son, Benton Harbor and Watervliet, Michigan," whereas, in fact, the said apples and blackberries were grown and packed in Springdale, Ark.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The exceptions of the claimants to the sufficiency of the libel on the alleged grounds of the unconstitutionality of the act and the absence of a preliminary hearing by the Secretary of Agriculture having been severally overruled, and a jury having been waived, and the case submitted to the court upon the pleadings, an agreed statement of facts, deposition of C. H. Godfrey, and arguments of coun-

sel, the court found the facts and pronounced the conclusions of law thereupon as follows:

In the District Court of the United States for the Western Division of the Western District of Missouri.

UNITED STATES OF AMERICA

v.

100 CASES OF TEPEE APPLES AND 172 CASES  
of Tepee Blackberries.

No. 245.

ORDER.

Now, on this day this cause coming on for further hearing, the United States appearing by A. S. Van Valkenburgh, esq., United States attorney for the western district of Missouri, and the intervenors, Godfrey & Son, of Benton Harbor, Michigan, appearing by their attorneys, Messrs. Kelly, Brewster & Buchholz and Thomas E. Lannen, and said cause having been heretofore submitted upon an agreed statement of facts by the parties hereto, and the deposition of C. H. Godfrey, and upon the pleadings of the parties hereto, and the court having heard the arguments of counsel, and the matters all and singular being submitted to the court, and the court being fully advised in the premises, doth find:

First. That the apples and blackberries seized by the United States marshal in this case, and now in his possession, were packed by C. H. Godfrey & Son at Springdale, Arkansas, and were by them transported in interstate commerce from Springdale, Arkansas, to Kansas City, Missouri, and sold to Ridenour-Baker Grocery Company, at Kansas City, Missouri, where they were seized in the original unbroken packages by the United States marshal for the western district of Missouri.

Second. That the apples and blackberries seized by said United States marshal as aforesaid were grown at and near Springdale, Arkansas.

Third. That the cans containing said apples and blackberries were misbranded in this, to-wit, that the labels and brands placed on said cans by said C. H. Godfrey & Son contained the following as to the place where said apples and blackberries were packed, that is to say, "Packed by C. H. Godfrey & Son, Benton Harbor and Watervliet, Mich."

Fourth. That said brands and labels so placed on said cans of apples and blackberries by said C. H. Godfrey & Son were calculated to and do mislead the purchasers and consumers of said apples and blackberries as to the place where said apples and blackberries were grown and packed.

Fifth. That said apples and blackberries were subject to seizure as being misbranded under the provisions of the act of Congress approved June 30, 1906, entitled, "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and more particularly under the provisions of section ten of said act, and that the United States marshal did, on or about the 30th day of January, 1908, seize said apples and blackberries under the provisions of said act, and the same are now in his possession.

Wherefore, it is ordered and adjudged by the court that said United States marshal shall label and brand said cans containing said apples and blackberries as having been packed at Springdale, Arkansas; that the said marshal shall advertise and sell said apples and blackberries as provided by law, and shall, out of the proceeds of said sale, pay the costs incurred in this action, and pay the

remainder, if any, into the Treasury of the United States, as provided in section ten of said act of Congress: *Provided, however,* That the said C. H. Godfrey & Son, intervenors herein, upon the payment of the costs of this libel and the execution of a good and sufficient bond, in the sum of fifteen hundred dollars, conditioned that the said C. H. Godfrey & Son shall label said goods in accordance with the judgment of the court as herein expressed, and further conditioned that they will not sell or dispose of said apples and blackberries in violation of the laws of the United States, or the laws of any State, Territory, district, or insular possession of the United States, shall have the right to the possession of said apples and blackberries now in the possession of said United States marshal, and the said United States marshal is hereby directed to deliver said apples and blackberries to the said C. H. Godfrey & Son, or their duly authorized agents, upon the execution and delivery of the aforesaid bond and the payment of the aforesaid costs, within twenty days from this date.

SMITH MCPHERSON, *Judge.*

OPINION OF THE COURT.

Thereafter, and on the 23d day of October, 1908, the court rendered its opinion in substance and in form as follows:

In the District Court of the United States, Western District of Missouri, at Kansas City.

UNITED STATES OF AMERICA  
*v.*  
 100 CASES OF TEPEE APPLES AND 172 CASES }  
 of Tepee Blackberries. } No. 245.

*A. S. Van Valkenburgh*, United States attorney, and *L. J. Lyons*, assistant United States attorney, for the Government.

*Kelly, Brewster & Buckholz* and *Thomas E. Lannen* for C. H. Godfrey & Son.

OPINION.

SMITH MCPHERSON, *Judge.*

This case is by information filed by the United States attorney, charging that Ridenour-Baker Grocery Company, of Kansas City, Missouri, has in its possession cases of apples and blackberries in original unbroken packages which are misbranded within the meaning of the act of Congress approved June 30, 1906, entitled "Food and Drugs."

The fruits were thereupon seized by the marshal, and notice thereof given. In due time C. H. Godfrey & Son, of Benton Harbor, Michigan, appeared and made defense. A jury was waived and the case tried to the court. The evidence consists of an agreed statement of facts and the deposition of C. H. Godfrey. And these are the facts:

Godfrey & Son pack and can fruits, with their factory at Benton Harbor, Michigan, and such has been their business for several years, with their principal office at that place, the fruits grown there, as well as in other States. Their only post-office address was there.

The apples and berries in suit were grown at and near Springdale, Arkansas, and by Godfrey & Son there bought and canned, and by them later on sold and shipped to the Ridenour-Baker Company at Kansas City. Each can of apples was labeled with a blue paper about ten inches long and five inches wide, with a picture of a red apple, an Indian tent, or "tepee," with the words "Tepee Apples; Packed by C. H. Godfrey & Son, Benton Harbor and Water-vliet, Mich."

The berry cans had the same label in all respects, except the picture was of a cluster of blackberries and the words "Tepee Blackberries."

The opinion of the Secretary of Agriculture was that such words to the exclusion of Springdale, Arkansas, where the fruit was grown and packed, misleads the public. Evidence is offered that Godfrey & Son did not know of such opinion, and that they believed the cans were properly labeled. Such evidence is not admissible and is ruled out.

The evidence shows that Michigan and northern apples are of a better quality and flavor than are Arkansas apples, and that is a matter of common information. As to the berries, the evidence is not so certain, although the deposition of Mr. Godfrey fairly shows that Michigan blackberries, with one variety excepted, are better than those of Arkansas.

Adulteration of goods and false labeling had become so common that it was well-nigh impossible to purchase pure goods or that which was called for. The same was true as to medicines. Congress undertook to remedy it. The one purpose was to prevent the sale of adulterations. The other purpose was to enable a purchaser to obtain what he called for and was willing to pay for. And under this latter view it is immaterial whether Michigan fruits are better than those grown in Arkansas. A purchaser of canned goods may prefer Michigan fruits. He may believe them to be better than Arkansas fruits. He has the right to call for them, and when he pays or is debited for them he has the right to have Michigan fruits. The purchaser has the right to determine for himself which he will buy and which he will receive and which he will eat. The vendor can not determine that for the purchaser. He, of course, can make his arguments, but they should be fair and honest arguments.

In this case the label is very attractive to the eye, and of course its only purpose is to sell the fruit. But for that the label would not be on the can. That is what the purchaser at retail looks for, and that is what, more than any other statement or argument, induces the purchase. That the evidence shows that to be misleading, because the words thereon, "Packed by C. H. Godfrey & Son, Benton Harbor and Watervliet, Mich.," is understood by all adults and children as not only being there packed, but fruits grown in that vicinity. Of course it is idle to insist, as Mr. Godfrey does, that the fruits could not have been raised *within* the city of Benton Harbor. The term "misbranded" as used in the statute, as defined by the statute, is "the package or label of which shall bear any statement designed or device regarding such article \* \* \* which shall be false or misleading *in any particular*, and to any food which is falsely branded as to the State, Territory, or country in which it is *manufactured or produced*."

Again, the statute recites, "If it be labeled or branded so as to deceive or mislead the purchaser, it should be considered as misbranded."

There can be no doubt, as it seems to me, that any purchaser from this label would be deceived, in that he would be receiving Arkansas fruits instead of Michigan fruits. Deception is seldom practiced by a literal falsehood, but is usually joined with some truth, so that the entire statement will deceive. And so in this case. Of course the statement is true that Godfrey & Son reside and do business at Benton Harbor, but that one true statement is used in conjunction with the packing of the fruits, and I repeat that I would believe from that, as would all others, that it is Michigan fruit within the cans. And if Godfrey & Son believe, and if it be true, that Arkansas fruits are as good or better than Michigan fruits, let that fact be disclosed by labels and otherwise. This statute is to protect consumers and not producers. It is a most beneficent and righteous statute, and within the powers of Congress to legislate concerning, and should be enforced. It can not be enforced if it is to be emasculated, as is sought in the present case. The order will be that the fruits and cans under

seizure will be sold by the marshal after being properly branded. This will be done instead of destroying them, as the fruits are not deleterious.

But this order may be avoided under the statute if Godfrey & Son will pay the costs and give bond to properly brand the goods in accordance with this opinion, and sell them in all respects in conformity to law.

KANSAS CITY, MISSOURI, October 23, 1908.

The case grew out of the following facts:

On or about January 1, 1908, an inspector of the Department of Agriculture found in the possession of the Ridenour-Baker Grocery Company, Kansas City, Mo., 100 cases of canned apples, each can being labeled "Tepee Apples. Packed by C. H. Godfrey & Son, Watervliet and Benton Harbor, Michigan," and 242 cases of canned blackberries, each can being labeled "Tepee First Quality Blackberries. Packed by C. H. Godfrey & Son, Watervliet and Benton Harbor, Michigan." The fruit had been shipped to Ridenour-Baker Company by C. H. Godfrey & Son, from Springdale, Arkansas, during the month of September, 1907. The inspector having procured evidence showing that the fruits involved in this case were grown and packed in Arkansas, it was apparent that they were misbranded under section 8 of the Food and Drugs Act, and in consequence thereof, on January 24, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the western district of Missouri, who duly filed a libel for seizure and condemnation of the goods under section 10 of the act, with the result hereinbefore set out.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., January 11, 1909.

(S. J. 37.)

#### ADULTERATION OF MILK (WATER).

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States against Andreas Griebler lately pending in the district court of the United States for the eastern district of Illinois, wherein the said Griebler was charged with the violation of section 2 of the aforesaid act alleged to have been committed in the shipment and delivery for shipment of adulterated milk—that is to say, milk which contained an excess of water—from Illinois to Missouri.

The defendant having been arraigned and pleaded not guilty, the case was submitted to a jury upon the evidence and argument of counsel and the following instructions of the court:

WRIGHT, D. J., charging the jury:

Gentlemen of the jury: In this case the Government charges the defendant that he shipped and delivered for shipment from Trenton, in the county of Clinton, in the State of Illinois, to Carlyle Dairy Company, at St. Louis, in the State of Missouri, an article of food, to wit, a certain quantity of milk which was then and there adulterated by having mixed and packed therewith water so as to reduce and lower and injuriously affect the quality and strength of said milk, contrary to the statute, etc.

There are two counts in this information, but it isn't necessary to specifically call your attention to more than one, because, as I understand the prosecution, they are not claiming that the statute was violated but the one time.

The act of Congress makes it unlawful for a person to ship an article of food from one State to another State, or to deliver such article for shipment from one State to another State, which, at the time of the delivery, or shipment, was, or had been, adulterated. The adulteration to be contrary to the statute must be, first, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; second, if any substance has been substituted wholly, or in part, for the article.

Before the Government can claim a conviction at your hands it must be proved by the evidence in the case beyond a reasonable doubt that the defendant is guilty as charged in the information. If, after a fair and impartial investigation, you have a reasonable doubt of his guilt, as charged in the information, then it would be your duty to acquit him. If, after the same investigation of all the evidence in the case, you have an abiding conviction of his guilt, then it would be your duty to convict him.

A reasonable doubt is not such a doubt as is engendered by imagination, or by an undue sensibility of the consequences of your verdict. Nor can you go outside of the evidence. A doubt must arise from a fair and impartial consideration of the evidence, and it is such a doubt as if interposed in the graver transactions of life it would cause a reasonable man to pause before acting upon it. Now, if you have such a doubt of the guilt of the defendant in this case as I have endeavored to define, you will acquit him. If you have an abiding conviction of the truth of this charge, then you will convict.

The real issue in this case is whether, under the evidence here, the milk, at the time it was shipped, or delivered for shipment, contained water. That is the charge in the information. It is not necessary for the Government to prove that the defendant actually put the water in himself, nor is it necessary to prove that he knew at that time there was water in the milk, if there was water in it. Under this statute, for the protection of the public, those who consume, a person who undertakes to ship food products must be held to know what it is he puts into commerce, must know at his own peril what it contains. It is sufficient if you believe he delivered the milk for shipment, or shipped it, and that there was water in it, and that the water was mixed therewith so as to reduce or lower or injuriously affect its quality or strength, and as to that question you know as much as any witness. It is not a matter for an expert. It is a matter of everyday knowledge as to whether water in the milk would reduce or lower its strength. Everybody knows that it does. So if you believe from the evidence that there was water in the milk you will convict the defendant. If you find there was no water in it you will acquit him.

And on November 30, 1908, the jury returned a verdict of not guilty, whereupon the said defendant was discharged from further custody.

The facts in the case were as follows:

On September 30, 1907, an inspector of the Department of Agriculture obtained samples of milk from a consignment of milk shipped by Andreas Griebler, from Trenton, Ill., to St. Louis, Mo. One of the samples was forthwith analyzed in the Bureau of Chemistry of said Department and the following results were obtained and stated:

Specific gravity at 15.5°/15.5° C	1.0259
Fat	per cent 4.67
Total solids	do 12.06
Solids not fat	do 7.39
Ash	do .63
Refraction at 20° C	37.1
Test for nitrates	Very strong.
Conclusions	Watered.

The standard for milk as defined in "Standards of Purity for Food Products," Circular No. 19, Office of the Secretary, United States Department of Agriculture, published under authority of the act of March 3, 1903, and as recognized by the larger body of reputable producers, is as follows:

Milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains not less than eight and one-half (8.5) per cent of solids not fat, and not less than three and one-quarter (3.25) per cent of milk fat.

It seemed, therefore, that the sample in question was adulterated within the meaning of section 7 of the Food and Drugs Act of June 30, 1906, in that it appeared to contain an excessive amount of water, thereby reducing its quality and strength. On December 28, 1907, the Secretary of Agriculture accorded the said Griebler a hearing, but as there was nothing disclosed at the hearing tending to show any fault or error in the analysis of the Department, the Secretary, on April 30, 1908, reported the facts to the Attorney-General. These facts were duly referred to the United States attorney for the eastern district of Illinois, who filed an information against the said Griebler, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

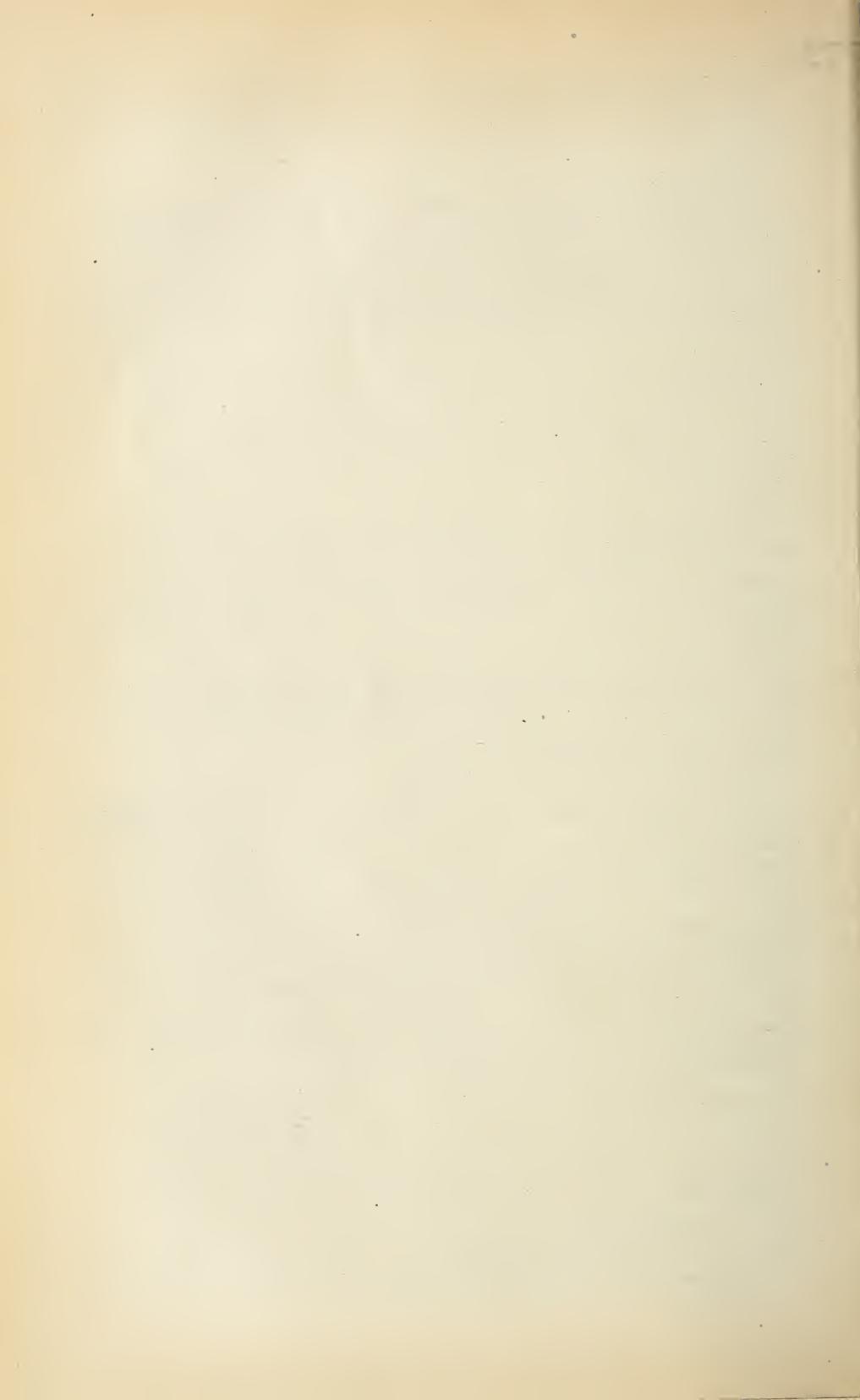
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., January 11, 1909.



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U. S. Dep't of Agriculture.  
ANSWERED.....

Issued March 10, 1909.

United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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**NOTICE OF JUDGMENT NO. 38, FOOD AND DRUGS ACT.**

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**MISBRANDING OF CANNED CORN.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the food and drugs act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 12th day of October, 1908, in the District Court of the United States for the District of Utah, in a proceeding of libel for seizure and condemnation of 1,240 cases of canned corn, each case labeled and branded "2 Doz. 2 lbs. Sweet Corn, Audubon Canning Co., Audubon, Iowa," wherein the United States was libelant and Fred J. Kiesel Company, a corporation, was consignee and claimant, the said claimant having elected not to answer and the case having come on for a hearing, the court adjudged the goods misbranded and ordered that they be redelivered to the claimant upon the filing by it of a good and sufficient bond in accordance with the provisions of section 10 of the act.

The goods were misbranded when received by the Fred J. Kiesel Company in interstate commerce, in violation of section 8 of the aforesaid act for that the brand on each case represented the contents thereof to be 2 dozen 2-pound cans of corn, whereas in fact the cans contained less than 2 pounds.

The facts in the case were as follows:

On or about September 19, 1908, an inspector of the Department of Agriculture located in the possession of the Fred J. Kiesel Company, a corporation, Ogden, Utah, 960 cases, each containing 24 cans of corn, which were a part of 1,240 cases consigned to it by the Audubon Canning Company of Audubon, Iowa, and received by it on or about the 15th day of August, 1908. The said 960 cases of corn were marked and branded "2 Doz. 2 lbs. Sweet Corn, Audubon Canning Co., Audubon, Iowa." An examination of a number of the cans of corn made by the inspector showed the combined weight of can and contents to be

not over 24 ounces avoirdupois. On September 22, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Utah and libel for seizure and condemnation was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *February 17, 1909.*

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U. S. Dep't of Agriculture.

Notice of Judgment Nos. 39-42 ANSWERED.....

Issued March 16, 1909.

# United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

## NOTICE OF JUDGMENT NOS. 39-42, FOOD AND DRUGS ACT.

39. Misbranding of corn and beans (Underweight).
40. Misbranding of canned corn (As to presence of saccharin).
41. Adulteration of water (Great Bear Spring).
42. Misbranding of butter (Renovated butter).

(N. J. 39.)

### MISBRANDING OF CORN AND BEANS.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of July, 1908, in the district court of the United States for the western district of Missouri, in a proceeding of libel for condemnation of misbranded corn and beans, that is to say, 98 cases of corn and 788 cases of beans, each case containing 24 cans misbranded as to weight of content, wherein the United States was libelant and the Bloomington Canning Company, a corporation, was claimant, the said claimant having filed its answer, and the cause having come on for hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the district court of the United States, southwestern division judicial district of Missouri, being the southwestern division the western district of Missouri.

UNITED STATES OF AMERICA

vs.

ONE HUNDRED (100) CASES OF CORN, AND SEVEN HUNDRED AND EIGHTY-EIGHT (788) CASES OF BEANS.

ORDER.

In this cause, it appearing to the court that the Bloomington Canning Company, a corporation of the State of Illinois, has this day filed its claim and answer to the information and monition issued out of this court, wherein said claimant confesses the matters and things set forth in said information and the violation of the act of Congress, approved June 30, 1906, entitled, "An act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein and for other purposes," and further prays the

court to enter a decree and judgment in said cause as in said information requested; and said claimant, through its counsel and attorney, J. T. Lillard, esq., consenting thereto, and the court having heard the statements and arguments of counsel on behalf of said claimant and on behalf of the United States, and being fully advised in the premises,

It is, therefore, by the court ordered, adjudged, and decreed that the ninety-eight (98) cases of corn and the seven hundred and eighty-eight (788) cases of beans described in the information filed in this case as one hundred (100) cases of corn and seven hundred and eighty-eight (788) cases of beans, and now in the possession of the United States marshal for this division and district, in the warehouse of R. A. Clark Storage House, 929 Virginia avenue, Joplin, Jasper County, Mo., be, and the same hereby is, declared condemned and forfeited as misbranded within the meaning of the act aforesaid, and the Bloomington Canning Company, the vendor and shipper of said articles, appearing by its claim herewith filed, admitting that said articles were shipped contrary to the provisions of said act of Congress, but that the same was without fraudulent intent, and that it proposes to reclaim the goods and to comply with the provisions of the law in the future, and requesting of the court the benefits and privileges of the proviso to section ten (10) of the act of Congress aforesaid, that it be permitted to pay the costs of said libel proceeding and to execute and deliver a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to law, and the court being fully advised and satisfied in the premises,

It is further ordered that upon the payment of the costs in this proceeding of libel, and upon the execution of a bond to the United States in the sum of twelve hundred (\$1,200) dollars, with sufficient surety, to be approved, by the judge of this court, with the condition that said articles shall not be sold contrary to law, within ten days herefrom, then the libel proceeding herein against said articles shall be discontinued and dismissed; otherwise the marshal of this district is directed, after first properly labeling said ninety-eight (98) cases of corn and seven hundred and eighty-eight (788) cases of beans, to advertise the same for sale in some newspaper published in the city of Joplin, Jasper County, Mo., at least fifteen (15) days before the day of sale, and sell the same on the premises of said R. A. Clark Storage House, 929 Virginia avenue, Joplin, Jasper County, Mo., for cash to the highest bidder, and to hold the proceeds of such sale until further orders of this court.

JOHN F. PHILLIPS, *Judge.*

The facts in the case were as follows:

On or about June 19, 1908, an inspector of the Department of Agriculture found in the possession of the Interstate Grocery Company at Joplin, Mo., 100 cases of corn and 788 cases of beans, which had been consigned to it by the Bloomington Canning Company of Bloomington, Ill., arriving in part at destination on the 28th day of March, 1908, and in part on the 8th day of May, 1908. The 100 cases of corn, each of which contained two dozen cans, were marked and branded "2 dozen, 3-pound Birthday Brand, Extra Quality Hulled Corn." The 788 cases of beans, each of which contained two dozen cans, were marked and branded "2 dozen, 2-pound, Birthday Brand Extra Quality, Red Kidney Beans." An examination of a number of the cans of corn made by the inspector showed that the actual gross weight of the cans ranged from 38 to 40 ounces. An examination of a number of the cans of beans showed that the average gross weight of the cans was 25 ounces.

It was evident, therefore, that the goods were misbranded, in violation of section 8 of the Food and Drugs Act of June 30, 1906, and on June 22, 1908, the facts were reported by the Secretary of Agriculture to the Attorney-General, who referred them to the United States attorney for the western district of Missouri. Libel for seizure and condemnation, under section 10 of the act, was duly filed in the district court of the United States for said district, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCabe,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., February 26, 1909.

(N. J. 40.)

#### MISBRANDING OF CANNED CORN.

(AS TO PRESENCE OF SACCHARIN.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of September, 1908, in the district court of the United States for the western district of Tennessee, in a proceeding of libel for condemnation of 800 cases of misbranded corn, that is to say, corn labeled "Packed with Heyden Sugar" when in fact it was not so packed, but with a sweet substance known as saccharin, wherein the United States was libellant and Smith-Yingling Company, of Westminster, Md., was claimant, the said claimant having failed to answer and the case having come on for a hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the district court of the United States for the western division of the western district of Tennessee.

THE UNITED STATES OF AMERICA, }  
vs. }  
EIGHT HUNDRED AND FIFTY CASES OF CANNED CORN. }

In this cause it appearing to the court, the United States, by Casey Todd, acting United States attorney, and the Smith-Yingling Company, of Westminster, Maryland, the claimant and owner of the property seized herein, by their attor-

ney, Thos. J. Turley, consenting thereto, that under the process issued in this cause, eight hundred cases of the canned corn branded "Oriole Brand Sugar Corn Packed with Heyden Sugar, by Smith-Yingling Company, Westminster, Maryland," were seized by the United States marshal in the warehouses of Chism-Thompson Co., Oliver-Finnie Co., and W. C. Early Company, in the city of Memphis, Shelby County, Tennessee, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that said eight hundred cases of canned corn were misbranded in that said corn was packed with a substance known as saccharin, which substance was and is in no sense a sugar, and that said brand on said cans of corn and on said cases were and are misleading and calculated to deceive purchasers,

And it further appearing to the court, by like consent, that the Smith-Yingling Company have agreed that an order may be entered at once, condemning and confiscating said property to the United States,

It is therefore ordered, adjudged, and decreed by the court that said eight hundred cases of canned corn above described, now in possession of the marshal of this court, be, and the same are hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the Smith-Yingling Company, claimant, of the costs of this proceeding and the execution and delivery of a good and sufficient bond to be filed with the clerk of this court, conditioned that the said eight hundred cases of canned corn shall not be sold or otherwise disposed of contrary to the provisions of the act of Congress, chapter 3915, of the 59th Congress, commonly known as the Pure Food and Drugs Act, or contrary to the laws of the State of Tennessee, then the marshal of this court is hereby directed to deliver said eight hundred cases of canned corn to the Smith-Yingling Company, claimant, or their attorney or representative.

But in event said Smith-Yingling Company shall fail to pay the costs of this proceeding, or fail to give the bond as above provided within fifteen days from the date of entry of this order, then the marshal of this court is hereby directed, after first properly branding said eight hundred cases of canned corn, to advertise the same for sale in some newspaper published in the city of Memphis, Tennessee, for a period of fifteen days, and sell the same on the premises of the warehouses of the firms hereinbefore mentioned, in the city of Memphis, Shelby County, Tennessee, for cash, to the highest bidder.

Enter.

MC CALL, J.

The facts in this case were as follows:

On August 13, 1908, an inspector of the Department of Agriculture found 850 cases of canned corn in the possession of the following-named companies at Memphis, Tenn.: Chism-Thompson Co., 400 cases; Oliver-Finnie Co., 300 cases; W. C. Early Co., 150 cases. Each case contained a number of cans of corn which were branded "Oriole Brand Sugar Corn, Packed with Heyden Sugar, by Smith-Yingling Co., Westminster, Md.," and which had been shipped by the Smith-Yingling Co. to the companies above mentioned.

A sample of the corn was analyzed by the Bureau of Chemistry and it was found that a sweet substance known as saccharin had been substituted wholly for sugar. Saccharin is not a sugar and the use of the phrase "Packed with Heyden Sugar" was, therefore, false and misleading. On August 13, 1908, the facts were reported by the Secretary

of Agriculture to the United States attorney for the western district of Tennessee. Libel for seizure and condemnation, under section 10 of the act, was duly filed in the court aforesaid with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved :

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., February 26, 1909.

(N. J. 41.)

**ADULTERATION OF WATER.**

(GREAT BEAR SPRING.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 20th day of October, 1908, in the Supreme Court of the District of Columbia holding a district court of the United States, in a proceeding of libel for condemnation of 350 cases and 100 demijohns of water labeled "Great Bear Spring Water," adulterated in that it contained the colon group of organisms which rendered it unfit for consumption, wherein the United States was libelant and the Great Bear Spring Company, of Washington, D. C., was claimant, the said claimant having filed its answer and the cause having come on for hearing, a decree of forfeiture, condemnation, and destruction was rendered, in substance and in form as follows:

In the Supreme Court of the District of Columbia holding a District Court of the United States for said District.

UNITED STATES OF AMERICA vs. 350 CASES AND 100 DEMIJOHNS OF WATER LABELED "GREAT BEAR SPRING."	} No. 786, District Docket.
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This cause having come on to be heard, upon the libel filed herein, the warrant of arrest issued thereunder, the return of the marshal, showing that he has made seizure under the said warrant of arrest, and the answer of the respondent and claimant, the Great Bear Spring Company, a corporation, filed herein, admitting the averments of the said libel and consenting to a judgment for condemnation; and thereupon, upon consideration thereof, it is, this twentieth day of October, A. D. 1908, ordered, adjudged, and decreed that the said three hundred and fifty cases, more or less, and the said one hundred demijohns, more or

less, of water labeled "Great Bear Spring Water," seized herein be, and the same hereby are, decreed to be adulterated as claimed in the said libel, in violation of act approved June 30, 1906; and it is ordered that the same be, and they hereby are, condemned, as prayed for in the petition, and it is ordered that the same be disposed of by destruction. It is further ordered that the claimant and respondent, the Great Bear Spring Company, a corporation, shall pay the costs of these proceedings, including the court costs, storage, cartage, and the other costs, if any, as assessed by the marshal herein.

By the court.

THOS. H. ANDERSON, *Justice.*

The facts in the case were as follows:

On September 26, 1908, an inspector of the Department of Agriculture purchased from the Great Bear Spring Company, Washington, D. C., samples of a water labeled "Great Bear Spring Water," which were promptly subjected to analysis in the Bureau of Chemistry, Department of Agriculture. The results of the analysis showed that the water contained the colon group of organisms which indicated that there was a contamination rendering the water unfit for human consumption. The conclusions of the analysts were confirmed by an inspection of the bottling plant and of the methods employed there, which disclosed that the contamination probably was due to insanitary surroundings and uncleanly methods of handling at the time the water involved in this case was bottled.

On October 14, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the District of Columbia, and libel for seizure and condemnation was duly filed in the aforesaid court with the result stated in the decree hereinbefore set forth.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., February 26, 1909.

(N. J. 42.)

#### MISBRANDING OF BUTTER.

(RENOVATED BUTTER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 6th day of November, 1908, in the police court of the District of Columbia,

in a criminal prosecution by the United States against Corinne H. Redman for violation of section 2 of the aforesaid act in the sale and offer for sale in the District of Columbia of a quantity of renovated butter under the name of another article of food, that is to say, Elgin butter, the said Corinne H. Redman having entered a plea of guilty to two distinct and separate offenses, the court imposed upon him a fine of \$50 for each offense.

The facts in the case were as follows:

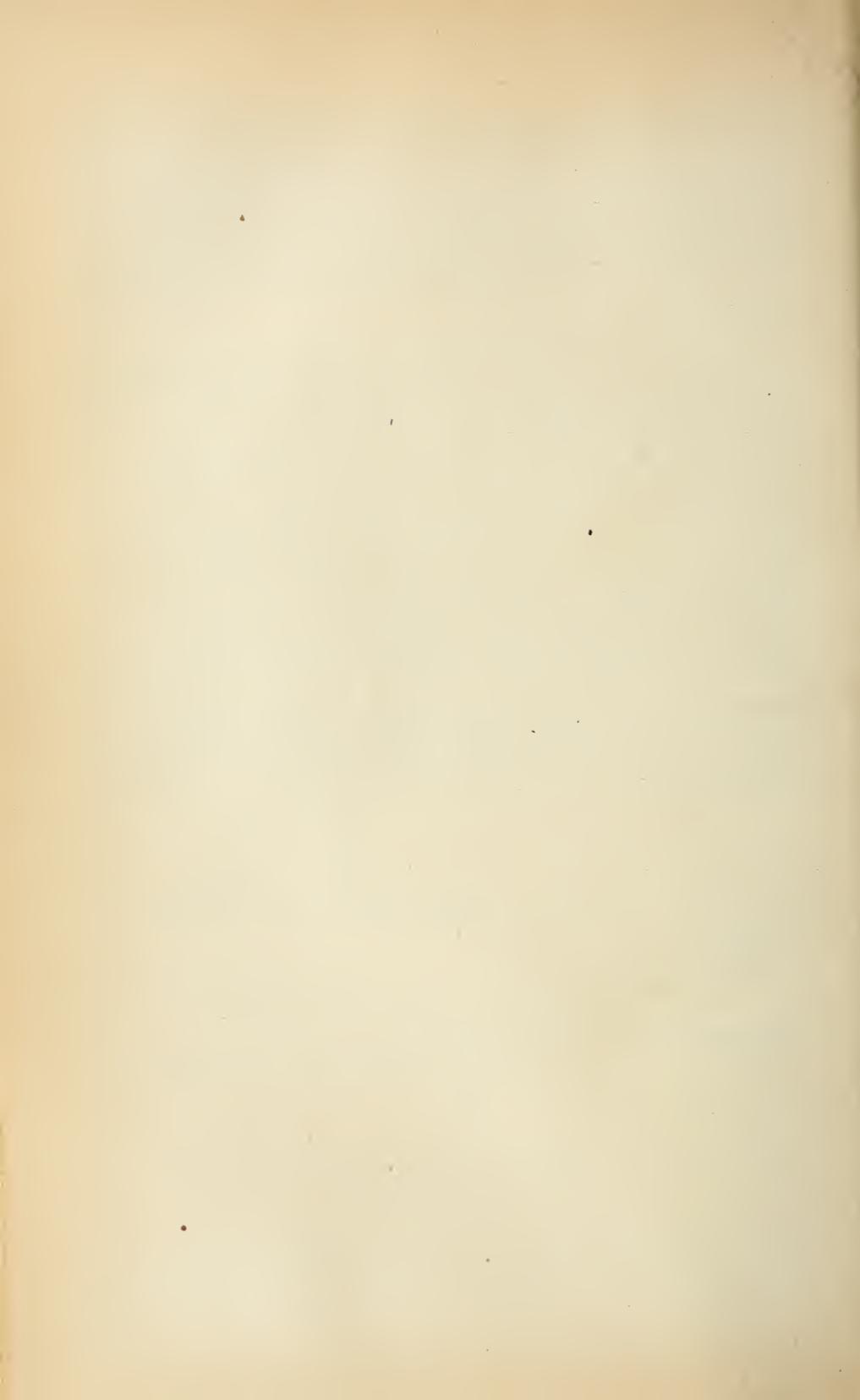
On June 20 and 22, 1907, an inspector of the Department of Agriculture purchased from Corinne H. Redman, proprietor of the Elgin Creamery Company, 220 Ninth street, N. W., Washington, D. C., samples of a quantity of butter exposed for sale at the store of said company, and advertised on a blackboard at the door as "Elgin Creamery Co., 4 Pounds Best Elgin Butter only \$1.00 today only," and also represented by the dealer to be very best creamery butter. The samples were duly analyzed in the Bureau of Chemistry of said Department and found to be renovated butter. On July 12, 1907, the Secretary of Agriculture accorded the Elgin Creamery Company a hearing, and as no evidence was introduced by the dealer to show any fault or error in the determination of the analysts of the Department the facts were duly reported to the Attorney-General and by him to the United States attorney for the District of Columbia, who, on October 30, 1908, filed an information in the police court of said District against Corinne H. Redman, proprietor of said Elgin Creamery Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., February 26, 1909.



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Notice of Judgment Nos. 43-47  
U. S. Dept. of Agriculture.

Issued March 29, 1909.

ANSWERED.....

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

## NOTICE OF JUDGMENT NOS. 43-47, FOOD AND DRUGS ACT.

43. Misbranding of canned peas (As to weight).
44. Misbranding of meal (As to milling process).
45. Adulteration and misbranding of whiskey (As to color, age, and source).
46. Adulteration of eggs (Filthy, decomposed animal substance).
47. Misbranding of maple syrup (As to presence of maple syrup).

(N. J. 43.)

### MISBRANDING OF CANNED PEAS.

(AS TO WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 9th day of November, 1908, in the district court of the United States for the district of Indiana, in a proceeding of libel for condemnation of 282 cases of canned peas, more or less, misbranded as to weight, wherein the United States was libelant and P. Hohenadel, jr., Canning Company, a corporation, Rochelle, Ill., was claimant, the said claimant having filed its answer admitting the allegations of the libel, and the case having come on for hearing, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF  
INDIANA.

UNITED STATES

vs.

Two Hundred Eighty-Two Cases of Canned Peas, More  
or less, and the P. Hohenadel, jr., Canning Company. } 6875.

Now, at this day comes the United States, by Joseph B. Kealing, United States attorney for the district of Indiana, and the P. Hohenadel, jr., Canning Company, by Giles F. Belknap, its secretary, claimant and owner of the seven hundred and eighty-five cases of canned peas, by Bamberger and Fiebleman, their attorneys, and this cause coming on to be heard on the pleadings herein and after due deliberation being had in the premises the court finds that all of the allegations contained in the libel are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed that the said seven hundred and eighty-five cases of canned peas be, and the same are hereby, condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the Court that the costs in this case, taxed at \$—, have been paid by the claimant, the P. Hohenadel, jr., Canning Company, and the claimant having filed herein a good and sufficient bond, to the effect that the said seven hundred and eighty-five cases of canned peas shall not be sold or otherwise disposed of contrary to the provisions of Food and Drugs Act, June 30, 1906,

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said seven hundred and eighty-five cases of canned peas and restore the same to the claimant, the P. Hohenadel, jr., Canning Company.

The facts in this case were as follows:

On or about September 30, 1908, an inspector of the Department of Agriculture found in the possession of the Bement Rea Company, Terre Haute, Ind., 785 cases of canned peas which had been packed and shipped to it by the P. Hohenadel, jr., Canning Company, Rochelle, Ill., on July 31, 1907. The shipping cases, each of which contained 26 cans, were labeled and branded "2 Doz. 2 lb. Cans, Choice Standard Peas. Packed by P. Hohenadel, jr., and Co., Rochelle, Ill." A number of the cans were weighed by the inspector and the average weight per can was found to be 1 pound, 10 ounces, gross.

On September 30, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Indiana, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *March 13, 1909.*

(N. J. 44.)

#### MISBRANDING OF MEAL.

(AS TO MILLING PROCESS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of November, 1908, in the district court of the United States for the

eastern district of Virginia, in a proceeding of libel for condemnation of 400 sacks of misbranded meal, wherein the United States was libelant and S. W. Weilder, Cincinnati, Ohio, was claimant, the said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation and redelivery to the claimant was rendered in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF VIRGINIA.

THE UNITED STATES OF AMERICA, *Libelant.* }  
 vs. }  
 FOUR HUNDRED SACKS OF MEAL, WHEREOF }  
 S. W. Weilder is claimant, *Respondent.* }

On motion of the district attorney, and it appearing to the court that upon the libel filed herein on the 5th day of September, 1908, monition was duly issued and served, and by virtue of such process the marshal seized and took into his possession the four hundred sacks of meal, labeled and branded as "Old Log Cabin Meal, Best Water Ground Style;" and it further appearing that the claimant of said meal, S. W. Weilder, appeared before this court on the 29th day of September, 1908, and consented that a decree of condemnation should be entered in accordance with the prayer of the libel, it is, therefore, now

Adjudged, ordered, and decreed that the said four hundred sacks of meal, labeled and branded as aforesaid, be, and they are hereby, declared, as charged in the libel, to be misbranded, in violation of the act of June 30, 1906, contained in 34 Statutes at Large, page 768, et seq., entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and it is further ordered that the said four hundred sacks of meal, branded as aforesaid, be, and they are hereby, condemned and ordered to be disposed of by sale at public auction by the marshal, after due advertisement for five days in some newspaper published in the city of Norfolk, Virginia, as prayed for in said libel, and provided for in the said act of June 30, 1906, the proceeds arising from such sale, less the legal costs and charges, to be paid into the Treasury of the United States.

It is provided, however, that upon payment, within thirty days from date of this decree, of all costs of this proceeding, including the expenses incurred by the marshal in and about the seizure of said meal and the storage and watching of and insurance upon the same, the said meal may be delivered to the said claimant in compliance with the terms of the bond in the penalty of \$500 heretofore filed in accordance with section 10 of the aforesaid act, or the laws of any State, Territory, District, or insular possession of the United States, and that the said meal shall be properly labelled and branded in accordance with said act.

EDMUND WADDILL, Jr.,  
*U. S. District Judge.*

The facts in the case were as follows:

On or about September 3, 1908, an inspector of the Department of Agriculture located en route between Covington, Ky., and Norfolk, Va., four hundred sacks of meal containing ninety-six pounds each, labeled "Old Log Cabin Meal. Fresh Ground Meal. Best Water Ground Style.

LeGrand, Threadcroft Co., Sole Agents for Eastern Virginia and North Carolina." The meal was destined for a dealer at Norfolk, Va., and had been shipped via the Chesapeake and Ohio Railroad from Covington, Ky., by the S. W. Weilder Co., of Cincinnati, Ohio, to itself, with instructions to notify the LeGrand, Threadcroft Company, Norfolk, Va.

Previous investigations of one of the inspectors of the Department of Agriculture had developed that the output of the mill where this meal was produced was not ground by the water process or in burr mills, but by steam roller process. Hence the statement on the sacks "Best Water Ground Style" was false, misleading, and deceptive and the meal was misbranded within the meaning of section 8 of the Food and Drugs Act. Upon report of the inspector of the foregoing facts, the Secretary of Agriculture, on September 4, 1908, reported them to the United States attorney for the eastern district of Virginia. Libel for seizure and condemnation of the meal was duly filed under section 10 of the act, and upon its arrival at Norfolk, Va., seizure was effected and notice given to S. W. Weilder, the consignor and claimant, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *March 13, 1909.*

(N. J. 45.)

**ADULTERATION AND MISBRANDING OF WHISKEY.**

(AS TO COLOR, AGE, AND SOURCE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 4 barrels of liquor purporting to be whiskey, a proceeding of libel for condemnation of said liquor, wherein Chas. H. Ross & Company, Baltimore, Md., were claimants, lately pending, and finally determined on November 12, 1908, in the supreme court of the District of Columbia by the rendition of a decree of forfeiture and condemnation, and redelivery to the claimants under section 10 of the act, as will more fully appear by reference to said decree hereinafter particularly set out.

The said four barrels of liquor were each labeled and branded on the label end thereof "J. Jackson, Old Rye Whiskey," and on the stamp

end thereof "Whiskey Compound with Grain Distillates, Chas. H. Ross and Co., Baltimore, Md.," and in the libel for seizure and condemnation thereof it was alleged and charged as follows:

Your libellant further represents that said four barrels of said liquid and each and every one thereof are illegally held within the jurisdiction of this honorable court and are liable to condemnation and are confiscable as provided by the said Food and Drugs Act approved June thirtieth, 1906:

(a) In that the liquid contained in the said four barrels and every one thereof is adulterated and misbranded in violation of section seven of the Food and Drugs Act approved June thirtieth, 1906, in that the said liquid is not old mature whiskey but is an imitation thereof, and is a product which has been colored and mixed by the addition of artificial coloring matter, in a manner whereby inferiority is concealed and in order to imitate old mature whiskey, and whereby the said product does imitate and appear to be old mature whiskey.

(b) In that the said four barrels and every one thereof are misbranded in violation of the Food and Drugs Act approved June thirtieth, 1906, in that the said barrels are branded "Old Rye Whiskey," whereas the contents thereof are neutral spirits, which are not products of "rye" and which are not "old."

Your libellant further charges that the said barrels do not contain old rye whiskey, and the branding on the label end of the barrels is therefore misleading and deceptive, and is a misbranding within the meaning and in violation of the said Food and Drugs Act approved June thirtieth, 1906.

And your libellant further charges that the branding on the stamp end of the said barrels, "Whiskey Compound with Grain Distillates, Chas. H. Ross and Company, Baltimore, Md.," is further misleading and deceptive, and is a misbranding within the meaning and in violation of the said Food and Drugs Act approved June thirtieth, 1906, in that the said barrels do not contain liquid which may be called "Whiskey Compound with Grain Distillates," but contain merely neutral spirits colored and flavored by the addition of artificial matter, so as to produce the color and taste of old mature whiskey, and do not contain what would be a compound of straight whiskey and other distillates of grain.

The said claimants having failed to answer as duly cited and admonished so to do, but having consented to the entry of a default and judgment thereon, and the case having come on for final hearing on the day hereinbefore stated, upon the motion of the United States attorney for judgment of condemnation, the court rendered its said decree, in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

UNITED STATES  
vs.  
4 BARRELS OF LIQUID PURPORTING TO BE WHISKEY. } No. 790.

JUDGMENT OF CONDEMNATION.

This cause coming on to be heard upon the motion of Daniel W. Baker, United States attorney for the District of Columbia, for judgment of condemnation, and it appearing to the court that the warrant of arrest issued herein was duly served and that by virtue thereof the marshal of the United States for the District of Columbia has seized the four barrels with contents specified in the said libel and inventoried herein as of the value of two hundred and seventy-four 50/100 dol-

lars and it appearing that all parties in interest were cited upon the nineteenth day of October, 1908, to appear herein on or before November 6, 1908, and it appearing that S. I. Kemp, C. R. Diffenderffer, W. S. Diffenderffer, and Frank J. A. Murphy, trading under the firm name of Charles H. Ross and Company, have appeared herein and claimed the said four barrels with contents, but have failed to file answer to the said libel, and consent to a default and judgment under the same, it is this 12th day of November, A. D. 1908,

Ordered, adjudged, and decreed, that the said four barrels with contents as aforesaid labeled and branded "J. Jackson, Old Rye Whiskey" on the label end of the said barrels, and labeled and branded "Whiskey Compound with Grain Distillates, Charles H. Ross & Co., Baltimore, Md.," on the stamp end of the said barrels, are misbranded in violation of the Food and Drugs Act approved June thirtieth, 1906, as charged in the said libel.

And it is further ordered, adjudged, and decreed that the said liquid contained in the said four barrels is adulterated in violation of the Food and Drugs Act approved June thirtieth, 1906, in that the said liquid is not old mature whiskey, but is an imitation thereof, and is a product which has been colored and mixed by the addition of artificial coloring matter in a manner whereby inferiority is concealed and in order to imitate old mature whiskey, as charged in the said libel.

And it is further ordered, adjudged, and decreed that the said four barrels of liquid aforesaid be, and they hereby are, condemned and ordered to be disposed of by destruction or by sale in such manner as not in conflict with the said Food and Drugs Act approved June thirtieth, 1906. It is provided, however, that on payment of all of the costs of the proceedings herein, including costs of the marshal, of storage, hauling, and all other costs incurred in these proceedings, and the execution and delivery to the said marshal by the said claimant, Charles H. Ross and Company, of proper bond in the penal sum of one thousand dollars, conditioned that the said four barrels with contents as described in the said libel shall not continue their present branding or be further branded in violation of the said Food and Drugs Act approved June thirtieth, 1906, and that the liquid contained in the said four barrels shall not be sold, used, or disposed of in violation of the said Food and Drugs Act approved June thirtieth, 1906, the said marshal shall redeliver the said four barrels with contents to the said claimant, Charles H. Ross and Company, in lieu of disposing of them by destruction or sale as aforesaid.

THOS. H. ANDERSON, *Justice.*

The facts in the case were as follows:

On October 8, 1908, an inspector of the Department of Agriculture found in the possession of J. E. Dyer and Company, Washington, D. C., four barrels of a product purporting to be whiskey, each barrel bearing upon the label end the words "J. Jackson, Old Rye Whiskey" and on the stamp end the words "Whiskey Compound with Grain Distillates, Chas. H. Ross and Co., Baltimore, Md." The internal revenue gauger's numbers on the barrels were as follows: R8807951, R8807952, R8807953, and R8807954. The liquor had been shipped by Chas. H. Ross and Company, from Baltimore, Md., on October 6, 1908. A sample taken by the inspector was subjected to analysis in the Bureau of Chemistry of said Department and found to be colored by the addition of artificial coloring matter introduced for the purpose of concealing inferiority and producing an imitation of old mature whiskey.

Accordingly, on October 9, 1908, the Secretary of Agriculture reported the facts to the Attorney-General, by whom they were duly referred to the United States attorney for the District of Columbia, who forthwith filed a libel for seizure and condemnation of said four barrels of liquor under section 10 of the aforesaid act, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

Approved: *Board of Food and Drug Inspection.*  
JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *March 13, 1909.*

(N. J. 46.)

### ADULTERATION OF EGGS.

(FILTHY, DECOMPOSED ANIMAL SUBSTANCE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 25th day of November, 1908, in the district court of the United States for the eastern district of Michigan, in the proceeding of libel for condemnation of 276 tubs of adulterated eggs, that is to say, eggs which had been removed from their shells and frozen into a solid mass and consisting in part of a filthy, decomposed, and putrid animal substance unfit for food, wherein the United States was libelant and Spencer & Howes, a corporation, was claimant, the cause having come on for hearing and the said claimant having admitted the allegations of the libel, decrees of forfeiture and condemnation and redelivery to claimant, under the terms of its bond filed in accordance with section 10 of the act were rendered, in substance and in form as follows:

UNITED STATES OF AMERICA—THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN—SOUTHERN DIVISION.

UNITED STATES OF AMERICA  
vs. } No. 5211.  
276 TUBS "EGGS."

Spencer and Howes, a corporation organized and doing business under the laws of the State of Michigan, of the city of Detroit, Michigan, by William C. Manchester, their proctor, come now into court and acknowledge that the above entitled eggs are composed in whole and in part of a filthy, decomposed, and putrid animal substance as set forth in the libel filed in said cause, and consent that the same may be condemned and forfeited to the United States, under the provisions of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating

traffic therein, and for other purposes," subject to the right of said claimants to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the above entitled act of Congress.

Now, therefore, it is hereby ordered, adjudged, and decreed that the said eggs be, and the same are hereby, condemned and forfeited to the United States as being filthy and decomposed eggs, animal substance, and as being unfit and improper for use as foods, within the provisions of the aforesaid act of Congress.

HENRY H. SWAN,  
*District Judge.*

NOVEMBER 25, A. D. 1908.

THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT  
OF MICHIGAN—SOUTHERN DIVISION.

UNITED STATES OF AMERICA }  
vs. } No. 5221.  
276 TUBS "EGGS."

Whereas a decree has been entered in the above-entitled cause condemning and forfeiting the above-entitled eggs to the United States subject to the right of said claimant, Spencer and Howes, to give bond therefor and obtain delivery thereof upon the terms and conditions of section 10 of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,"

And whereas the said claimant has paid the costs of the said libel proceedings in the above-entitled cause, and has executed a bond in the sum of five hundred (\$500.00) dollars, to the effect that said eggs shall not be sold or otherwise disposed of contrary to the provisions of said section 10 of the aforesaid act of Congress, or contrary to the laws of any State, Territory, District, or insular possession, and that said eggs shall not be permitted in any way to go into consumption as food stuffs:

Now, therefore, it is hereby ordered, adjudged, and decreed that the said eggs be delivered to the said Spencer and Howes, the owners and claimants thereof.

HENRY H. SWAN,  
*District Judge.*

NOVEMBER 25, A. D. 1908.

The facts in this case were as follows:

On or about June 30, 1908, an inspector of the Department of Agriculture found in the possession of Spencer & Howes, in Detroit, Mich., a consignment of 276 tubs of unshelled, frozen eggs which had been shipped to them by C. Eberle & Sons, of Cincinnati, Ohio. The tubs bore no label or other marks which would indicate the nature of the contents, but the consignment had been invoiced as eggs. An investigation made by an inspector of the Department of Agriculture revealed the fact that these were refuse eggs culled by the shippers from fresh, sound, and salable eggs and afterwards broken and the contents frozen into a solid mass.

On July 30, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the eastern district of Michigan

and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

Approved : *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *March 13, 1909.*

(N. J. 47.)

**MISBRANDING OF MAPLE SIRUP.**

(AS TO PRESENCE OF MAPLE SIRUP.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 27th day of November, 1908, in the district court of the United States for the northern district of Ohio, in a prosecution by the United States against H. Y. Scanlon, doing business at Cleveland, Ohio, under the name of the Western Reserve Syrup Company, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to Michigan a misbranded sirup, that is to say, a sirup contained in bottles labeled "Western Reserve Ohio Blended Maple Syrup. This syrup is made from the sugar maple tree and cane sugar and guaranteed to be in accordance with the National Pure Food Laws. Western Reserve Syrup Co., Cleveland, O.," which was not a blended maple sirup, but a cane sugar sirup flavored with maple extracted in the factory of the producer from wood of parts of maple trees, the defendant having entered a plea of not guilty, and the case having been submitted to the court upon testimony and argument of counsel, the court found for the United States and sentenced the defendant to pay a fine of \$50 and costs.

**FINDING, OPINION, AND JUDGMENT OF THE COURT.**

IN THE DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OHIO, EASTERN DIVISION.

THE UNITED STATES, *Plaintiff,*      }  
                    *vs.*      } No. 3284. Opinion, Nov. 27, 1908.  
H. Y. SCANLON, *Defendant.*      }

TAYLER, J. (orally):

A cursory examination of this label—that is the only examination that the ordinary customer makes, and that is the examination which is controlling in a case of this kind—presents the suggestion, if it does not carry with it the absolute statement, that this bottle contains Ohio maple syrup; but a careful scrutiny discloses, between the red words "Ohio" above and "Maple Syrup" below, a blue word "Blended," and then, below that, in smaller type, the statement that "This syrup is made from the sugar maple tree and cane sugar."

I think it was intended to convey the impression that there was a mixture, in the popular meaning of a mixture, of maple syrup and of a syrup which is made from cane sugar or New Orleans molasses or something of that kind, that people prefer to use rather than the heavier or thicker kinds of syrup; a kind of appropriate union of syrups that are used for a common purpose. At all events, the information conveyed by this label as one looks at it is that it is primarily a maple syrup, and then, upon a little closer inspection, that it is not exactly all maple syrup but that it has some syrup in it made from cane sugar. The label was evidently designed to go as far as it could in advertising the fact that maple syrup was there and still to comply with the Pure Food Act.

Now, it would be very interesting to enter into this discussion, not exactly sophistical, but still drawing rather sharp lines of distinction between various conceptions of the meaning of the law and the chemical aspects of these various products of the maple tree, but I do not think it is necessary for me to go into it. It is not so much a question of chemistry as of popular comprehension. We would not have any pure food laws if we were all chemists, because then we would be able to find out for ourselves what the thing was we were buying; and, of course, the opportunity and suggestion of temptation to deception would be very much reduced if a man who sold knew that he was dealing with a person who could find out easily just what he was buying. It is not a question of chemistry in this case any more than it is with butter. It is a question of what is the popularly recognized definition of maple syrup; and that undoubtedly is, and we do not need the chemists to testify to it, that it is the syrup produced from boiling down the sap that flows in the spring of the year from the live maple tree. It has a certain consistency, and, of course, a certain specific gravity, which a chemist can tell us about, but those persons who have used it know in a general way when it has a proper consistency and a proper specific gravity, as they certainly do whether it has the proper flavor.

So that, if this syrup is made, as Mr. Scanlon says it is made, by some treatment of the chopped down maple tree, whereby he gets an enormously larger amount of what may be called maple saccharine than is obtained from the free flowing of sap from the live tree, that is not maple syrup which he gets from it. If his statement is true—and I have no right to question its truth, except that I can hardly believe him when he says he obtains so much—that he gets his maple syrup and maple sugar that way, that is not maple sugar which he makes, and, therefore, he is not permitted to make use of that word under the Pure Food Act. It seems to me that is all there is in this matter for me to consider now.

It is an interesting question whether this is not a blend. They are both sugars. But it is not so much a matter of law, except as law may be compelled by certain facts, or of dictionary definitions, but what has come to be recognized in the administration of a revenue law or a food law as a blend. Perhaps it is too soon to say now what that is. We may find some analogies in the administration of the law affecting spirits, and I see some plausibility in the statement that rum, brandy, and whiskey do not "blend," although the base of them is alcohol; quite as large a percentage as the basis of maple syrup or cane syrup is sucrose; and the analogy would seem to justify the conclusion that you can not "blend" maple syrup and cane syrup or a syrup made from cane sugar. But I do not pass upon that. I pass upon the broad question and lay down the broad proposition that this label is misleading and is a violation of the law; that the contents of the bottle are not what the label manifestly and suggestively declares those contents to be; and, primarily, I think the fundamental fact is that it is not maple syrup. The people who buy maple syrup would be in a very different frame of mind if they knew that the so-called maple syrup that made this so-

called maple blend was derived from a treatment of the wood of the maple tree after it was chopped down from that in which they are when they buy what they understand to be maple syrup made from the boiled down sap drawn from the live tree. So I will have to find the defendant guilty.

The facts in the case were as follows:

On August 13, 1907, an inspector of the Department of Agriculture purchased from James I. Robert, Monroe, Mich., samples of a sirup labeled "Western Reserve Ohio Blended Maple Syrup. This syrup is made from the sugar maple tree and cane sugar and guaranteed to be in accordance with the National Pure Food Laws. Western Reserve Syrup Co., Cleveland, O." One of the samples of this sirup was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the following results obtained and stated:

Total ash (per cent) -----	0.59
Soluble ash (per cent) -----	0.56
Insoluble ash (per cent) -----	0.03
Ratio of soluble to insoluble ash -----	1:19
Alkalinity of soluble ash (cc N/10) -----	2.08
Alkalinity of insoluble ash (cc N/10) -----	0.60
Ratio of alkalinity of soluble to alkalinity of insoluble ash -----	1:3.5
Lead number (Winton) -----	0.52
Solids (per cent) -----	68.4

This analysis disclosed that the product was cane sugar sirup flavored with some constituents of the maple tree unlike the pure sap sirup of live trees extracted and prepared in the ordinary and usual manner. It, therefore, was apparent that the sirup was not a maple sirup and therefore not a blended maple sirup and that the representations on the labels were false, misleading, and deceptive, in violation of section 8 of the Food and Drugs Act. Accordingly, on November 4 and 6, 1907, in compliance with the provisions of section 4 of the act, the Secretary of Agriculture accorded the manufacturer and dealer a hearing, but as no evidence was submitted tending to show any fault or error in the result of the aforesaid analysis, he, on March 7, 1908, reported the facts to the Attorney-General and on May 29, 1908, the United States attorney for the northern district of Ohio filed an information in the district court for said district, against H. Y. Scanlon, the manufacturer and shipper of the sirup, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

Approved : *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *March 13, 1909.*



United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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**NOTICE OF JUDGMENT NOS. 48-49, FOOD AND DRUGS ACT.**

48. Adulterated and misbranded vanilla extract (A colored imitation).  
49. Misbranding of coffee (As to geographical source).

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(N. J. 48.)

**ADULTERATED AND MISBRANDED VANILLA EXTRACT.**

(A COLORED IMITATION.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of April, 1908, in the district court of the United States for the southern district of Ohio in a criminal prosecution by the United States against the Heekin Spice Company, a corporation, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to Kentucky an adulterated and misbranded vanilla extract, the said Heekin Spice Company entered a plea of guilty, whereupon the court imposed upon it a fine of \$5 and the costs of the prosecution.

The following is a statement of facts upon which the case was based:

On July 5, 1907, an inspector of the Department of Agriculture purchased from Wittmeyer Brothers, Newport, Ky., a sample of a food product labeled "American Flavors, Vanilla." This sample was part of a lot of the same product shipped by Heekin Spice Company from Cincinnati, Ohio, to Wittmeyer Brothers, Newport, Ky., on or about June 15, 1907. The sample was subjected to analysis in the Bureau of Chemistry and the following results obtained and stated:

Coumarin	-----	None.
Vanillin	-----	0.11 per cent.
Methyl alcohol	-----	None.
Resins	-----	None.
Caramel	-----	Present.
Alcohol test	-----	Natural color absent.

In "Standards of Purity for Food Products," Circular No. 19, Office of the Secretary, United States Department of Agriculture, established

under authority of the act of March 3, 1903, vanilla extract is defined as follows:

Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred (100) cubic centimeters the soluble matters from not less than ten (10) grams of the vanilla bean.

It was apparent, therefore, that the article was both adulterated and misbranded; adulterated because of the substitution of synthetic vanillin for extract of the vanilla bean, and because it was an imitation extract colored with caramel to give it the color of genuine vanilla extract, thereby concealing inferiority; and misbranded because it was labeled "American Flavors, Vanilla" when, as a matter of fact, it was an imitation of that article having in it no extract of the vanilla bean and having been colored with caramel to impart the color of the pure extract. The Secretary of Agriculture having on September 28, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the southern district of Ohio, who filed an information against the said Heekin Spice Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *March 17, 1909.*

(N. J. 49.)

#### MISBRANDING OF COFFEE.

(AS TO GEOGRAPHICAL SOURCE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *vs.* 300 cases of roasted coffee, more or less, a proceeding of libel brought under section 10 of the aforesaid act, in the district court of the United States for the district of Indiana, for seizure and condemnation of the said coffee for the reason that it was misbranded, in this, it was labeled and branded "Dutch Java Blend," although it contained neither Java nor any other East

India grade of coffee, but was a mixture of washed Santos, Santos, and Bourbon coffee. The Dayton Spice Mills Company, a corporation conducting business at Dayton, Ohio, appeared as claimant and owner of the said coffee. The cause having come on to be heard on the 17th of October, 1908, the court adjudged the coffee misbranded as alleged in the libel and rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

UNITED STATES  
vs.

THREE HUNDRED CASES OF ROASTED COFFEE, MORE OR LESS,  
The Dayton Spice Mills Co., Claimant and Owner.

6874.

Now, at this day comes the United States by Joseph B. Kealing, United States attorney for the district of Indiana, and the Dayton Spice Mills Company, by its president, claimant and owner of the two hundred and seventy cases of coffee, by P. H. Worman, esq., their attorney, and this case now coming on to be heard on the pleadings herein and after due deliberation being had in the premises, the court finds that all of the material allegations of the libel are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed that the said Two hundred and seventy cases of coffee, be, and the same are hereby, condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs in this case, taxed at \$—, have been paid by the claimant Dayton Spice Mills Company and the claimant having filed herein a good and sufficient bond, to the effect that the said Two hundred and seventy cases of coffee shall not be sold or otherwise disposed of contrary to the provisions of Food and Drug Act, June 30, 1906,

It is therefore further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said Two hundred and seventy cases of coffee and restore the same to the claimant, the Dayton Spice Mills Company.

The facts in the case were as follows:

On or about September 28, 1908, an inspector of the Department of Agriculture found in the possession of Frank S. Fishback, Indianapolis, Ind., 270 cases of roasted coffee, each case being labeled and branded "100 pounds Dutch Java Blend. Fancy Roasted Coffee, Dayton Spice Mills Co., Dayton, Ohio." The coffee had been packed and was shipped by the Dayton Spice Mills Company to Frank S. Fishback on September 26, 1908. Samples of the coffee had been analyzed in the Bureau of Chemistry of the Department of Agriculture and it was found that it was a mixture of washed Santos, Santos, and Bourbon coffee, the latter being a coffee grown in Brazil from Mocha coffee seed. It was evident that the label appearing on the cases describing the coffee contained therein as a "Dutch Java blend" was false, misleading, and deceptive and in violation of section 8 of the Food and Drugs Act of June 30, 1906. Accordingly, on October 1, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney

for the district of Indiana, and libel for seizure and condemnation under section 10 of the act was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *March 17, 1909.*

O

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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NOTICE OF JUDGMENT NO. 50, FOOD AND DRUGS ACT.

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## ADULTERATION OF COFFEE.

(COATED WITH LEAD CHROMATE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 84 sacks of coffee, a proceeding of libel for seizure and condemnation of said coffee under section 10 of the aforesaid act, lately pending and finally determined on April 22, 1908, in the district court of the United States for the middle district of Tennessee. The coffee was adulterated within the meaning of section 7 of the Food and Drugs Act in that the beans were coated with lead chromate, a poisonous and deleterious substance, whereby inferiority was concealed and the coffee rendered injurious to health. The coffee had been prepared for Westfeldt Brothers, of New Orleans, by the Southern Coffee Mills, of the same city, and was shipped by the latter under directions of the former to Orr, Jackson & Co., Nashville, Tenn., during the month of January, 1908.

Libel for seizure and condemnation having been filed on the 20th day of January, 1908, and seizure effected thereunder, and the case having come on for hearing on the 22d day of April, 1908, in pursuance of notice to all parties interested and after full testimony for the United States, no claimant having appeared, the court rendered its decree adjudging the coffee adulterated and ordering its destruction by burning.

The decree is as follows:

This cause came on to be heard on this, the 22nd day of April, 1908, on libel of information filed on behalf of the United States, the monition and attachment which were duly issued and returned, the order of court requiring publication to be made so that all persons claiming any interest in the coffee seized in above styled cause might have due notice thereof, the testimony of the U. S. marshal and the exhibition of printed notices showing that such publication was made as directed by the court, the testimony of various witnesses, etc., whereupon after due deliberation the court finds that all of the material allegations of the said libel are true, and it appearing by satisfactory evidence to the court that the eighty-four sacks of coffee described in said libel and seized in this cause were shipped from New Orleans, La., to Nashville, Tenn., for the purpose of being sold; that said shipment was an interstate shipment; that said coffee is an article of food within the meaning of the act of Congress of the United States, generally known as the Food and Drugs Act of June 30, 1906; that the coffee in each of said sacks was adulterated before its aforesaid shipment and is adulterated within the meaning of aforesaid act of Congress; that said coffee was colored and coated with a compound of lead and a compound of chromium

in the form of lead chromate, in a manner whereby inferiority was concealed; that said coffee contained an added poisonous and deleterious ingredient, namely, lead chromate, which rendered said coffee injurious to health; that said coffee was seized and attached under process of this court in the store-house of Orr, Jackson & Company, in the city of Nashville, Tenn., after aforesaid shipment and while said coffee remained in unsold and original packages; that neither Orr, Jackson & Company nor any other person has made claim to said coffee or filed any answer or defense to aforesaid libel, the court on the motion of the United States attorney, is pleased to order and doth so order, adjudge, and decree that aforesaid coffee was subject to seizure and by reason of the violations of law alleged and proven, should be condemned as being adulterated, of a poisonous and deleterious character, within the meaning of aforesaid act, and such being the case, the court doth further order, adjudge, and decree that said coffee be, and the same is hereby, condemned, and the same is ordered destroyed forthwith, and to carry into effect this order the United States marshal of the middle district of Tennessee is hereby directed and commanded to destroy said coffee by having the same burned, and for the purpose of executing this decree said marshal is authorized and empowered to employ or engage any necessary help or assistance and such expense so incurred, as well as necessary expenses incurred in storing and guarding said coffee after its seizure, shall be reported to the court, with a statement of when and how this decree was executed, in order that another decree may be entered approving the action of the said marshal and ordering paid all reasonable and proper expenses incurred in the premises. The clerk will furnish the marshal a certified copy of this decree and he will make due return thereon of how he has executed the same.

McCALL, Judge.

The facts in the case were as follows:

On or about January 18, 1908, an inspector of the Department of Agriculture located in course of transportation to, and later in the possession of, Orr, Jackson & Co., Nashville, Tenn., 84 bags of coffee, each labeled "Polished Coffee." The coffee had been prepared by the Southern Coffee Mills, New Orleans, La., for Westfeldt Brothers, of the same city, who ordered its shipment by the former to Orr, Jackson & Co., Nashville, Tenn. Evidence having been obtained by the inspector that this coffee was adulterated by the addition of a coating of lead chromate, he reported the facts to the Secretary of Agriculture, who, on January 18, 1908, advised the United States attorney for the middle district of Tennessee, by whom libel for seizure and condemnation was promptly filed, with the result hereinbefore stated. Samples of the coffee were duly procured and analyzed, resulting in confirmation of the evidence theretofore obtained by the inspector.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

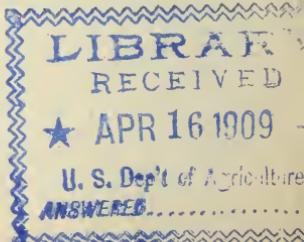
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., March 27, 1909.

O



## United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

**NOTICE OF JUDGMENT NOS. 51-53, FOOD AND DRUGS ACT.**

51. Misbranding of bottled beer (As to place of manufacture).  
52. Misbranding of canned corn (Underweight).  
53. Misbranding of canned corn (Underweight).

(N. J. 51.)

**MISBRANDING OF BOTTLED BEER.**

(AS TO PLACE OF MANUFACTURE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 50 cases of bottled beer (Joseph Fallert Brewing Company, owner) lately pending, and finally determined on the 15th day of July, 1908, in the district court of the United States for the eastern district of New York.

The above-stated case was a proceeding of libel for seizure and condemnation, under section 10 of the aforesaid act, of beer which was misbranded within the terms of section 8 of the act in this: The labels on the bottles bore, among other things, the words "Saint Louis" and "Bohemian beer," thereby representing the beer to be Bohemian beer and to have been manufactured in St. Louis; both of which representations were false, misleading, and deceptive, because the beer was not Bohemian beer and had not been manufactured in St. Louis, but in Brooklyn, N. Y.

No claimant having appeared, and the case having come on for hearing in the regular course, the court rendered the following decree:

AT A STATED TERM OF THE UNITED STATES DISTRICT COURT HELD IN AND FOR THE EASTERN DISTRICT OF NEW YORK, AT THE COURT HOUSE OF SAID COURT, IN THE FEDERAL BUILDING, IN THE BORO OF BROOKLYN, NEW YORK, ON THE 15TH DAY OF JULY, 1908.

UNITED STATES

vs.

FIFTY CASES OF BOTTLED BEER.

}

Present: Honorable THOMAS IVES CHATFIELD, *United States District Judge.*

An information having been filed herein on the 17th day of April, 1908, by William J. Youngs, United States attorney for the eastern district of New York, in a cause of seizure, confiscation, and condemnation of fifty cases of bottled beer, under section 8 of the Foods and Drugs Act of June 30, 1906, and a monition

having issued to the United States marshal of this district on the said 17th day of April, 1908, returnable May 6, 1908, and the said marshal having made return on the said 6th day of May, 1908, and the said marshal having given due notice to the Joseph Fallert Brewing Company, the owner of said fifty cases of bottled beer, that this court would proceed to the trial and condemnation thereof, should no claim be interposed therefor, which return has been duly filed, and the usual proclamation having been made, and no person having interposed a claim herein, and it appearing by the said information herein that the said fifty cases of bottled beer were subject to seizure and confiscation by the United States for the causes set forth, that is to say, for the reason that the said fifty cases of bottled beer were offered for shipment by the Joseph Fallert Brewing Co. on the steamer *Segueranta* of the Ward Line, from the Prentiss Stores, in the Boro of Brooklyn, eastern district of New York, to Guantanamo, in the island of Cuba, the said island of Cuba being a foreign country and the said shipment being attempted with the intent to export the said fifty cases of bottled beer from the port of New York and eastern district of New York and United States of America to a foreign port, to wit, Guantanamo, island of Cuba, the said fifty cases of bottled beer and each of the bottles therein contained bearing a false and fraudulent brand, and the said fifty cases of bottled beer and each and every of the bottles contained therein being misbranded contrary to the Pure Food and Drugs Act of June 30, 1906, and also for the reason that the said fifty cases of bottled beer, and each and every bottle contained therein, bears the words "St. Louis," whereas the said beer was brewed and bottled in the Boro of Brooklyn, eastern district of New York, by the Joseph Fallert Brewing Co., there being nothing on said bottles to indicate in any way or manner in what place the said beer was made and bottled or if at any other place than St. Louis, as required by law, and the said brands on the said cases and bottles contained therein were misleading and calculated to deceive purchasers; and it further appearing that the said cause is now in default, no person having interposed a claim herein, it is

Ordered, adjudged, and decreed that the defaults of all persons be entered and that the said fifty cases of bottled beer above described, now in the possession of the marshal of this district, be, and the same hereby are, declared forfeited and confiscated to the United States; and it is further

Ordered, that the clerk of this court issue to the marshal the usual writ of venditioni exponas, commanding him, the said marshal, to sell the said fifty cases of bottled beer on the premises of the Joseph Fallert Brewing Co. on the twenty-third day of July, 1908, at 12 m., upon giving six days' notice of the time and place of such sale in the Standard Union, a newspaper published in the Boro of Brooklyn and eastern district of New York, and that the marshal require the purchaser or purchasers at said sale to give a bond or other good and sufficient security for the proper branding of said bottles of beer, and that the marshal pay the proceeds of said sale, after deducting the costs, charges, and expenses of said sale, into court, to be disposed of according to law.

THOMAS I. CHATFIELD, U. S. J.

And afterwards, on the 23d day of July, 1908, in compliance with the aforesaid decree, the said 50 cases of beer were sold at public auction and the proceeds (\$60), less legal costs, were paid into the Treasury of the United States.

The facts in the case were as follows:

On April 17, 1908, an inspector of the Department of Agriculture found in the possession of the Ward Steamship Company, Brooklyn,

N. Y., a consignment of 50 cases of bottled beer, each bottle bearing two labels, upon one of which were printed the following words, letters, and designs:

[Picture of eagle and flag]	SAINT LOUIS B B B BOHEMIAN	Bohemian Brewery's Bottling B B B Barton B. Bostwick, Agent.
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LA MEJOR DEL UNIVERSO

On the other were printed:

Brilliant BOHEMIAN Beer	SAINT LOUIS — B - B - B	Best BOHEMIAN Brew
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The beer was consigned by the Joseph Fallert Brewing Company, Brooklyn, N. Y., to Guantnamo, Cuba.

An investigation by an inspector of the Department of Agriculture disclosed that the beer was manufactured and bottled in Brooklyn, N. Y., and was not Bohemian beer. Accordingly, on April 17, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of New York, who forthwith filed a libel for seizure and condemnation of the said beer, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., April 1, 1909.

(N. J. 52.)

**MISBRANDING OF CANNED CORN.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 678 cases of canned corn, a proceeding of libel brought under section 10 of the aforesaid act, in the district court of the United States for the western district of Oklahoma, for seizure and condemnation of the said corn for the reason that it was misbranded, in this, that each case was labeled and branded "2 doz. 2 lbs. Golf Queen Sugar Corn, packed by Ft. Des Moines Canning Co.,

Dexter, Iowa," or "2 doz. 2 lbs. Yucca Sugar Corn, packed by Ft. Des Moines Canning Co., Dexter, Iowa," when, as a matter of fact, the gross weight of each can did not exceed 1.5 pounds. McCord-Collins Mercantile Company, consignees and claimants, having appeared and filed their answer, and the cause having come on for hearing on November 10, 1908, upon an agreed statement of facts and argument of counsel, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF THE STATE OF OKLAHOMA.

THE UNITED STATES, *Libelant,* }  
vs. } No. —. Decree of condemnation.  
678 CASES OF CORN, *Defendant.*

Now, to wit, on the 10th day of November, 1908, at a term of said court at Lawton, in said district, said cause came on for trial, and it appearing to the court that upon the libel filed herein, monition and warrant of arrest was issued and duly served on the 18th day of July, 1908, and that by virtue of said warrant the marshal has seized and now holds six hundred and seventy-eight cases of canned corn of the approximate value of eight hundred dollars, containing two dozen cans to the case, the said six hundred and seventy-eight cases of canned corn, with the contents, having been seized within the premises and in the possession of the McCord-Collins Mercantile Company, a corporation, of Oklahoma City, within said district, and now being stored in the custody of the said marshal, and it appearing that the said McCord-Collins Mercantile Company, a corporation, the owners of said six hundred and seventy-eight cases of canned corn, was duly warned to appear on the 1st day of September, 1908, and that due and legal notice and proclamation was given to all persons having or claiming to have any claim, right, or interest herein, or in or to said property, to appear on said date and answer the said libel, and the said McCord-Collins Mercantile Company having so appeared by Burwell, Crocket, and Johnson, the attorneys of said company, and filed its answer to the said libel, and the libelant appearing by J. W. Scothorn, assistant United States attorney for the western district of Oklahoma, and the said McCord-Collins Mercantile Company appearing by the said Burwell, Crocket, and Johnson, and L. N. Gensman, its attorneys, a jury is waived and the said cause is tried to the court; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court as to what the facts are in this case, and upon said agreement in open court, submitted the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the contents of the six hundred and seventy-eight cases containing canned corn, of two dozen cans each, are articles of food, and that said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, liquors, and for regulating traffic therein, and for other purposes," and that the same has been transported as corn in interstate commerce, from the city of Dexter, in the State of Iowa, to the city of Oklahoma City, in the State of Oklahoma, and consigned to the McCord-Collins Mercantile Company, a corporation, in the western district of Oklahoma, and remains in said district in the original unbroken cases, being a consignment of canned corn misbranded, as to the weight of the contents of said

cases, and transported in interstate commerce from the said city of Dexter, in the State of Iowa, to the said McCord-Collins Mercantile Company, of Oklahoma City, Okla., being all of such consignment found in original unbroken packages; that is, the court finds that said articles of food are misbranded and in violation of said act of Congress in that said cases, and each of them, contain less weight than the amount as shown by the brands thereon; and that the said articles of food were so transported in interstate commerce and consigned and delivered to the McCord-Collins Mercantile Company aforesaid, wholesale dealers.

The court further finds that the articles of food contained in said six hundred and seventy-eight cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of such cases as to the quantity contained in each case, and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said six hundred and seventy-eight cases of corn, with the contents aforesaid, be, and they are hereby, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel; and it is further ordered that the said six hundred and seventy-eight cases of canned corn, with the contents aforesaid, be, and they are hereby, condemned and forfeited as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, and marshal's costs, and all cost of hauling, storage, watchmen, and other costs incident to or contracted in this proceeding, and the execution and delivery by the said McCord-Collins Mercantile Company, a corporation, to the libelant of a good and sufficient bond in the penalty of five hundred dollars, conditioned that the said six hundred and seventy-eight cases of canned corn, with the contents aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or the laws of any State, Territory, district, or insular possessions, that said marshal shall redeliver the said six hundred and seventy-eight cases of canned corn, with such of their contents as they now contain or may contain at the time of such redelivery, to the said McCord-Collins Mercantile Company, a corporation, in lieu of the retention and destruction thereof, the said bond to be filed herein, if at all, on or before the 1st day of December, 1908, and that the libelant receive from said McCord-Collins Mercantile Company, a corporation, its costs herein taxed at —— dollars, for which execution shall issue if the costs are not paid as hereinbefore provided.

The facts in this case were as follows:

On or about July 16, 1908, an inspector of the Department of Agriculture found in the possession of the McCord-Collins Mercantile Company, Oklahoma City, Okla., 202 cases (each containing 24 cans) of corn, labeled "2 doz. 2 lbs. Yucca Sugar Corn, packed by Ft. Des Moines Canning Co., Dexter, Iowa," and 476 cases (each containing 24 cans) of corn and labeled "2 doz. 2 lbs. Golf Queen Sugar Corn, packed by Ft. Des Moines Canning Co., Dexter, Iowa." These goods had been shipped to McCord-Collins Mercantile Company by the Ft. Des Moines Canning Co., and were received by them on June 13, 1907. A number of the cans were weighed by the inspector and the average gross weight of each was found to be 1.5 pounds.

The cases were therefore misbranded within the meaning of section 8 of the Food and Drugs Act, and on July 16, 1908, the facts were reported

by the Secretary of Agriculture to the United States attorney for the western district of Oklahoma and libel for seizure and condemnation was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., April 1, 1909.

(N. J. 53.)

**MISBRANDING OF CANNED CORN.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on or about the 10th day of November, 1908, in the district court of the United States for the western district of Oklahoma, in a criminal prosecution by the United States against the Ft. Des Moines Canning Co., a corporation conducting business at Dexter, Iowa, for violation of section 2 of the aforesaid act, in the delivery to McCord-Collins Mercantile Company at Oklahoma City, in original packages, of 678 cases of canned corn which were misbranded in respect to the statement thereon of the weight of the cans therein, and which said cases had theretofore been shipped by said Ft. Des Moines Canning Company from Dexter, Iowa, to Oklahoma City, Okla., the said Ft. Des Moines Canning Company having entered a plea of guilty, the court imposed upon it a fine of \$100.

The facts in the case were as follows:

On July 16, 1908, an inspector of the Department of Agriculture found in the possession of McCord-Collins Mercantile Company at Oklahoma City, Okla., 678 cases of canned corn, 202 of which were labeled "2 doz. 2 lbs. Yucca Sugar Corn, packed by Ft. Des Moines Canning Co., Dexter, Iowa," and 476 of which were labeled "2 doz. 2 lbs. Golf Queen Sugar Corn, packed by Ft. Des Moines Canning Co., Dexter, Iowa." A representative number of the cans having been weighed and found to average only one and one-half pounds each, it was apparent that the cases were misbranded within the meaning of section 8 of the Food and Drugs Acts of June 30, 1906. The corn had been shipped to McCord-Collins Mercantile Company by the Ft. Des Moines Canning Company, from Dexter, Iowa. Upon report of these facts by the Secretary of Agriculture to the United States attorney for the western district

of Oklahoma, a libel for seizure and condemnation of the goods was duly filed, and on November 10, 1908, a decree of condemnation was entered. The testimony in the libel proceedings having developed the fact that the corn had been shipped by the Ft. Des Moines Canning Company and delivered by it in original packages to McCord-Collins Mercantile Company, the United States attorney immediately filed an information against the Ft. Des Moines Canning Company, with the result hereinbefore stated.

H. W. WILEY,  
GEO. P. McCABE,  
F. L. DUNLAP,  
*Board of Food and Drug Inspection.*

Approved :

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *April 1, 1909.*

## LIST OF NOTICES OF JUDGMENTS.

FOODS.		
	N. J. No.	N. J. No.
Apple cider. See Cider.		
Apples, canned:		
C. H. Godfrey & Son -----	36	Honey:
Bloomington Canning Co -----	39	Rogers Holloway Co ----- 18
Beans, canned:		Rogers Holloway Co ----- 19
Blackberries, canned:		Rogers Holloway Co ----- 20
J. S. Ogburn & Co -----	26	Rogers Holloway Co ----- 21
J. S. Ogburn & Co -----	27	
C. H. Godfrey & Son -----	36	Maple Sirup:
Buckwheat flour. See Flour.		Scudder Syrup Co ----- 33
Butter:		Western Reserve Syrup Co -- 47
Elgin Creamery Co -----	42	Meal:
Cider, apple:		S. W. Weilder ----- 44
Semmes-Kelley Co -----	1	Milk:
O. L. Gregory Vinegar Co ---	6	Daniel Strassen ----- 8
U. S. Coffee Refining Co -----	4	Daniel Strassen ----- 9
Dayton Spice Mills Co -----	49	C. Deterding ----- 11
Coffee:		Andreas Griebler ----- 37
Southern Coffee Mills -----	50	Molasses:
Corn, canned:		Penick & Ford ----- 2
Fred J. Kiesel Co -----	38	White, Wilson, Drew Co --- 24
Bloomington Canning Co -----	39	
Smith-Yingling Co -----	40	Peaches, canned:
Eggs:		Ridenour-Baker Mercantile
F. Rogerson Co -----	7	Co ----- 34
Golden & Co -----	22	J. K. Armsby Co ----- 35
Spencer & Howes -----	46	Peas, canned:
Extract:		P. Hohenadel, jr., Canning Co 43
C. B. Woodworth Sons Co ---	5	Pepper:
Steinbock & Patrick -----	14	Interstate Chemical Co ----- 28
Heekin Spice Co -----	48	Renovated butter. See Butter.
Flour:		
The Birkett Mills -----	3	Vanilla extract. See Extract.
The Gardner Mill -----	12	Vinegar:
Orrville Milling Co -----	13	Oklahoma Supply Co ----- 23
Orrville Milling Co -----	17	Water:
C. Read & Co -----	31	Great Bear Spring Co ----- 41
DRUGS.		
Blackburn's Cascara, etc.:		Whiskey:
Victory Remedy Co -----	32	C. Person's Sons ----- 15
Cocain hydrochlorid:		Chas. H. Ross & Co ----- 45
J. Roach Abell -----	10	
Harper's Cuforhedake Brane-Fude:		Pine, concentrated oil of:
Robert N. Harper -----	25	Globe Pharmaceutical Co --- 30
		Sartoin Skin Food:
		Globe Pharmaceutical Co --- 16
		Sulphur, liquid:
		Hancock Liquid Sulphur Co 29

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.**NOTICE OF JUDGMENT NOS. 54-55, FOOD AND DRUGS ACT.**

54. Misbranding of a drug (Muco-Solvent).  
 55. Misbranding of coffee (As to geographical source).

(N. J. 54.)

**MISBRANDING OF A DRUG.**

(MUCO-SOLVENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 41 boxes of Muco-Solvent, a proceeding of libel under section 10 of the aforesaid act, in the District Court of the United States for the District of Kansas, for seizure and condemnation of the said drug for the reason that it was misbranded in violation of section 8 of the act in this: The label on the boxes contained false and misleading statements as to its medicinal properties, to-wit: "Muco-Solvent cures croup, whooping-cough, diphtheria, all throat troubles and catarrhal disorders." No claimant of the goods having appeared and the case having come on for a hearing on November 24, 1908, the court adjudged the goods misbranded and rendered the following decree, directing that they be confiscated to the United States and disposed of by destruction, which was accordingly done:

IN THE DISTRICT COURT OF THE UNITED STATES, DISTRICT OF KANSAS, FIRST DIVISION.

THE UNITED STATES, *Plaintiff*,  
*vs.*  
 FORTY-ONE BOXES OF MUCO-SOLVENT, *Defendant*. }

**DECREE.**

Now on this 24th day of November, 1908, this cause comes on for hearing, and the libelant being present by J. S. West, assistant United States attorney for the district of Kansas, and the Hessig-Ellis Drug Company, of Memphis, Tenn., a corporation, appearing not, but having made default, and F. A. Gatlin, doing business as the Gatlin Drug Company, in whose possession said drugs were found, not appearing and having made no claim whatever to said goods and having made default, and it appearing that all the allegations of the libel of information herein are true, and that the property seized herein was and is mislabeled and misbranded as charged in said libel of information, and it further

appearing that the said Hessig-Ellis Drug Company, a corporation of Memphis, Tenn., and the Muco-Solvent Company, manufacturer, and F. A. Gatlin, doing business as the Gatlin Drug Company, the manufacturer and shipper and consignee, respectively, of said goods, have had full, complete, actual knowledge of the proceedings heretofore had herein, it is now by the court considered and decreed that the forty-one boxes of Muco-Solvent seized herein be forthwith destroyed by the marshal of this court.

JOHN C. POLLOCK, *Judge.*

The facts in the case were as follows:

During the month of October, 1908, Dr. S. J. Crumbine, secretary of the State board of health of Kansas, acting under authorization of the Secretary of the United States Department of Agriculture, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Gatlin Drug Company, Topeka, Kans., 41 boxes of a drug preparation, each box bearing the label "Muco-Solvent cures croup, whooping-cough, diphtheria, all throat troubles and catarrhal disorders." The goods were received by the Gatlin Drug Company from the Hessig-Ellis Drug Company, Memphis, Tenn., distributing agents for the Muco-Solvent Company of Chicago, Ill. It was evident that the preparation was misbranded in violation of section 8 of the act for the reason that the statement given on the label that it would cure the diseases mentioned was unwarranted and untrue, and, therefore, false, misleading, and deceptive within the meaning of the act. Accordingly, on October 26, 1908, the facts were reported by Doctor Crumbine to the United States attorney for the district of Kansas and libel for seizure was duly filed and the goods seized by the United States marshal, with the results hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., April 17, 1909.

(N. J. 55.)

#### MISBRANDING OF COFFEE.

(AS TO GEOGRAPHICAL SOURCE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of

December, 1908, in the District Court of the United States for the Southern District of Ohio, in proceedings of libel for condemnation of 60 cases of misbranded coffee, wherein the United States was libelant and the Climax Coffee and Baking Powder Company, Indianapolis, Ind., was claimant, the said claimant having by its answer admitted the allegations of the libels, and the causes having come on to be heard, the court adjudged the coffee misbranded and entered an order in substance and in form as follows:

DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF OHIO,  
WESTERN DIVISION.

THE UNITED STATES OF AMERICA  
vs. } No. 1952, Order.  
TWENTY-SEVEN CASES OF COFFEE.

It appearing to the court that cases Nos. 1953 and 1954 in this court have been consolidated with this case, involving the seizure of sixty cases of coffee, and it further appearing that the substituted claimant herein, the Climax Coffee & Baking Powder Company has filed an answer admitting the allegations contained in the several libels herein and offers to pay the costs of this proceeding and give a bond in the sum of one thousand (\$1,000.00) dollars, conditioned that the goods seized shall be labeled and branded properly under the Food and Drugs Act, and the court being fully advised in the premises;

It is hereby ordered that upon claimant, the Climax Coffee & Baking Powder Company, giving bond in the sum of one thousand (\$1,000.00) dollars, conditioned that the goods seized shall be labeled and branded properly under the Food and Drugs Act, and upon payment of the costs herein, the marshal is hereby instructed to release said goods to said claimant; and a certified copy of this order shall be his authority to act in the premises.

The facts in the case were as follows:

On or about December 4, 1908, an inspector of the Department of Agriculture found in Cincinnati, Ohio, 16, 17, and 27 cases of coffee, in the possession, respectively, of Lewis Bros., J. C. Kerr Co., and Baum & Cogreve. The coffee had been packed and shipped to the said firms by the Climax Coffee and Baking Powder Company, Indianapolis, Ind. Each shipping case was labeled and branded "Climax Java Blend Coffee, Climax Coffee and Baking Powder Company, Indianapolis, Indiana," and contained 100 one-pound packages of coffee, a portion being labeled "Climax Package Coffee, a Combination of High Grade Old Crop Coffee of Scientific Blending," and the remainder, "Climax Java Blend Coffee, a Combination of High Grade Old Crop Coffee of Scientific Blending." Samples of the coffee were subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the results obtained showed the product to consist exclusively of a low-grade Rio coffee, no Java coffee being present, nor any evidence of scientific blending. It was apparent, therefore, that the labels on the shipping cases and on both brands of the retail packages were false,

misleading, and deceptive, in violation of section 8 of the act. Accordingly, on December 7, 1908, the facts were reported to the United States attorney for the southern District of Ohio and libels for seizure and condemnation, under section 10 of the act, were duly filed, with the result hereinbefore stated. On December 15, 1908, the claimant, the said Climax Coffee and Baking Powder Company, having filed a good and sufficient bond, in accordance with section 10 of the act, the coffee was redelivered to it.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *April 17, 1909.*

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United States Department of Agriculture,  
 OFFICE OF THE SECRETARY, LIBRARY  
 BOARD OF FOOD AND DRUG INSPECTION, RECEIVED  
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NOTICE OF JUDGMENT NOS. 56-57, FOOD AND DRUGS ACT.

56. Misbranding of lemon extract (As to presence of oil of lemon.)  
 57. Misbranding of canned apples (Underweight.)

(N. J. 56.)

MISBRANDING OF LEMON EXTRACT.

(AS TO PRESENCE OF OIL OF LEMON.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 9th day of October, 1908, in the circuit court of the United States in and for the middle district of Tennessee, in a prosecution by the United States against the Cumberland Manufacturing Company, of Nashville, Tenn., for violation of section 2 of the aforesaid act in the shipment from Tennessee into Kentucky of misbranded lemon extract, that is to say, an article designed for food labeled "Cumberland Mfg. Co.'s Swan Brand concentrated flavoring of lemon, oil lemon, and citral, veg. color," which contained no oil of lemon, the said Cumberland Manufacturing Company having theretofore entered its plea of guilty to the indictment, judgment of the court was rendered in substance and in form as follows:

UNITED STATES  
 vs. } No. 1114.  
 CUMBERLAND MFG. CO.

Came the United States attorney and came also the defendant in proper person and by attorney, and the said defendant being charged upon the indictment with violation of the Pure Food Act pleads guilty thereto and submits to the mercy of the court.

It is therefore considered by the court that the defendant forfeit and pay to the United States a fine of \$100.00 and the costs of the cause, for which let execution issue.

The following is a statement of facts upon which the case was based:

On July 24, 1907, an inspector of the Department of Agriculture purchased from J. P. Herman, Owensboro, Ky., samples of a so-called extract labeled "Cumberland Mfg. Co.'s Swan Brand concentrated flavoring of lemon, oil lemon and citral, veg. color, for flavoring ice cream, jellies, custards, pastry, &c., prepared by Cumberland Mfg. Co.,

Nashville, Tenn." The carton in which the bottles were incased was labeled "Concentrated flavor of lemon, oil lemon & citral," and on the side of this carton appeared the statement that Swan Brand flavors "are made from high-grade material by the most approved and scientific methods, and like all other goods put up under this trade mark, are of the highest possible grades, combining purity, excellence, strength and hygienic qualities for the price." The lot from which these samples were taken had been shipped by the Cumberland Manufacturing Company from Nashville, Tenn., to the F. T. Gunther Grocery Co., Owensburg, Ky., and that company, acting as distributors for the Cumberland Manufacturing Company, had delivered the goods to the retail dealer, J. P. Herman. One of the samples was analyzed in the Bureau of Chemistry of the Department of Agriculture, and the following results obtained and stated:

Lemon oil by polarization (per cent)-----	0.0
Citral (per cent)-----	0.11

In "Standards of Purity for Food Products," established under authority of the act of March 3, 1903, and published as Circular No. 19, Office of the Secretary, United States Department of Agriculture, lemon extract is defined as follows:

*Lemon extract* is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five (5) per cent by volume of oil of lemon.

A comparison of this standard with the analysis above stated, taken in conjunction with the representations on the label, clearly indicated that the claims made on the labels on the bottles and cartons were grossly false, misleading, and deceptive, and in violation of section 8 of the Food and Drugs Act of June 30, 1906.

On October 30, 1907, the Secretary of Agriculture afforded the Cumberland Manufacturing Company a hearing. As there was nothing disclosed tending to show any fault or error in the result of the analysis above stated, the facts were, on June 2, 1908, reported to the Attorney-General, and by him referred to the United States attorney for the middle district of Tennessee, who filed an information against the said Cumberland Manufacturing Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., April 26, 1909.

## MISBRANDING OF CANNED APPLES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 2d day of December, 1908, in the district court of the United States for the district of Indiana, in a proceeding of libel for condemnation of 400 cases of canned apples misbranded as to weight, wherein the United States was libelant and Herman Hulman, Anton Hulman, and Herman Hulman, jr., a copartnership trading under the firm name of Hulman and Company, at Terre Haute, Ind., were claimants, the said claimants having filed their answer admitting the allegations of the libel, and the cause having come on to be heard, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

UNITED STATES  
vs.

FOUR HUNDRED CASES OF CANNED APPLES, MORE OR LESS. }

Now at this day comes the United States by Joseph B. Kealing, United States attorney for the district of Indiana, and Hulman and Company, a copartnership composed of the following members, to wit, Herman Hulman, Anton Hulman, and Herman Hulman, jr., claimants and owners of the six hundred and forty cases of canned apples, by John Hickey, their proctor, and this cause now coming on to be heard on the pleadings herein and after due deliberation being had in the premises, the court finds that all of the allegations contained in the libel are true and that the United States is entitled to recover herein. It is therefore ordered, adjudged, and decreed that the said six hundred and forty cases of canned apples are hereby condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs in this case, taxed at \$—, have been paid by the claimants, and the claimants having filed a good and sufficient bond herein, to the effect that the said six hundred and forty cases of canned apples shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said six hundred and forty cases of canned apples and restore the same to the claimants herein.

The facts in the case were as follows:

On or about September 24, 1908, an inspector of the Department of Agriculture located in the possession of Hulman and Company, Terre Haute, Ind., 400 cases of canned apples, more or less, the cases and the individual cans contained therein being labeled "Erie Choice Winter Apples distributed by Erie Preserving Company, Buffalo, New York, San Francisco, California, net weight 30 to 34 ounces." The goods

had been shipped by the Erie Preserving Co., from Buffalo, N. Y., to Hulman and Company, Terre Haute, Ind., on November 30, 1907. A number of the cans were weighed by the inspector with the result that the net weight was found to vary from  $23\frac{1}{2}$  to  $28\frac{1}{4}$  ounces. As the claim was made on the label that the net weight of the cans was from 30 to 34 ounces, the goods were misbranded in violation of section 8 of the Food and Drugs Act.

On September 24, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Indiana, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., April 26, 1909.

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# United States Department of Agriculture

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION

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## NOTICE OF JUDGMENT NOS. 58-63, FOOD AND DRUGS ACT.

58. Adulteration and misbranding of oats (As to presence of barley).  
 59. Adulteration and misbranding of lithia water (Basic Lithia Water).  
 60. Adulteration and misbranding of buckwheat flour (As to presence of wheat and maize).  
 61. Misbranding of vinegar (As to location and name of manufacturer).  
 62. Misbranding of vinegar (As to location and name of manufacturer).  
 63. Misbranding of canned corn (Underweight).

(N. J. 58.)

### ADULTERATION AND MISBRANDING OF OATS.

(AS TO PRESENCE OF BARLEY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 20th day of November, 1908, in the district court of the United States for the eastern district of Tennessee, in a proceeding of libel for seizure and condemnation of one carload of oats, shipped by the Bartlett Commission Company from East St. Louis, Ill., to Lewis & Adcock, Knoxville, Tenn., which said oats were adulterated and misbranded within the meaning of sections 7 and 8 of the aforesaid act, in this, that they were sold, shipped, and invoiced as "No. 2 mixed oats," whereas, in fact, they contained 25 per cent of barley, wherein the United States was libelant and the said Bartlett Commission Company was claimant, the cause having come on for hearing upon the issues made by the libel and the answer of the claimant denying the adulteration and misbranding therein charged, and upon the later admission of said claimant, in open court, of the truth of the charges in said libel made, the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA, FOR THE  
NORTHERN DIVISION OF THE EASTERN DISTRICT OF TENNESSEE.

THE UNITED STATES      }  
                            vs.      } No. 4. Order.  
ONE CARLOAD OF OATS.      }

This cause came on to be heard on this 20th day of November, 1908, before Hon. Edward T. Sanford, Judge, present James R. Penland, United States

attorney, representing the United States, and Cornick, Wright & Franz, attorneys, representing the Bartlett Commission Company, the owner and claimant of the property herein seized; and it appearing that a libel was duly filed by the said United States against a certain carload of oats, consisting of 48,000 pounds, branded and shipped as "No. 2 mixed oats" by the said Bartlett Commission Company as consignors, from East St. Louis, in the State of Illinois, to Lewis & Adcock, Knoxville, in the State of Tennessee, and that under process duly issued in accordance with the prayer of said libel, the said carload of oats was duly seized by the United States marshal of this district, in the city of Knoxville, Tennessee, within the jurisdiction of this court, and so held by him at this time.

And it further appearing that said attorneys of said claimants agree in open court that said carload of oats was subject to seizure and condemnation by said United States, for the causes set forth in the libel herein, that is to say, that said oats contained a larger per cent of barley than permitted under the Pure Food and Drugs Act of June 30, 1906, and for that reason was misbranded and adulterated, and therefore the attorneys of said claimant in open court agree that an order may be entered at once, condemning and confiscating the said property to the said United States.

It is therefore ordered, adjudged, and decreed that the said 48,000 pounds of oats as above described, now in the possession of the United States marshal of this court, be, and the same are hereby, declared forfeited and confiscated to the said United States.

But because it appears that the carload of oats in question herein may be valuable as a food, and when properly branded may be sold without violation of law, it is further ordered that upon payment by the Bartlett Commission Company of all the cost of this cause, and the execution and delivery of a good and solvent bond in the penalty of \$800.00 to be filed with the clerk of this court, conditioned that the said 48,000 pounds of oats shall not be sold or otherwise disposed of contrary to the Pure Food and Drugs Act of June 30, 1906, or contrary to the laws of any State, Territory, District, or insular possession, then the said United States marshal of this court is hereby directed to deliver the possession of said oats to said Bartlett Commission Company, their attorneys or agents, which shall be disposed of or sold only when labeled or branded "barley mixed oats."

But in the event said Bartlett Commission Company shall fail to pay said costs, or fail to give the bond as above provided within ten days from the date of the entry of this order, then the marshal of this court is directed, after first properly branding or labeling said 48,000 pounds of oats as "barley mixed oats," to advertise the same for sale in some newspaper published in Knoxville, Tennessee, for a period of ten days, and sell the same on the premises where they are now located, in the city of Knoxville, for cash to the highest and best bidder.

The facts in the case were as follows:

On October 12, 1908, an inspector of the Department of Agriculture found in the possession of Lewis & Adcock, Knoxville, Tenn., a carload of an animal food purporting to be mixed oats; the lot had been invoiced and shipped to that firm on October 9, 1908, as "No. 2 mixed oats," by the Bartlett Commission Co., East St. Louis, Ill. An examination of a sample from the shipment in question was made in the Bureau of Chemistry, Department of Agriculture, with the result that it

was found to consist of 75 per cent of oats and 25 per cent of barley by weight.

It was apparent that the lot in question was both adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. Accordingly, on October 13, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of Tennessee and libel for seizure and condemnation under section 10 of the act was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., May 4, 1909.

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(N. J. 59.)

#### ADULTERATION AND MISBRANDING OF LITHIA WATER.

(BASIC LITHIA WATER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 75 bottles, more or less, of a liquid labeled "Basic Lithia Water," a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of said water, wherein Otis H. Wood of Washington, D. C., was claimant, lately pending, and finally determined in the supreme court of the District of Columbia on December 8, 1908, by entry of the decree hereinbelow set out. The water was adulterated and misbranded, within the meaning of sections 7 and 8 of the aforesaid act, in this, the bottles containing it were each labeled "Basic lithia water, natural carbonic spring water, Basic, Virginia. Uric acid solvent. A pure, light, freestone, lithia water. Invaluable as a constant and exclusive drinking water, and in the prevention and cure of rheumatism, gout, malaria, typhoid fever, and diseases of the kidneys, liver, blood, and nerves," whereas the water contained practically no lithium carbonate, or any substance which would warrant the statements as to medicinal virtues made on the label, and contained the colon group of organisms, thereby rendering the water unfit for human consumption.

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA  
 vs.  
 75 BOTTLES, MORE OR LESS, OF LIQUID LABELED  
 "Basic Lithia Water," etc. } No. 795.

DECREE.

Upon consideration of the libel filed herein, praying for the condemnation of seventy-five bottles, more or less, labeled "Basic Lithia Water," and it appearing to the court that upon the warrant of arrest issued herein the marshal of the United States for the District of Columbia has seized ninety-six bottles labeled "Basic Lithia Water," and inventoried as of the value of five dollars, as appears by the return of the said marshal filed herein; and it further appearing that the owner and claimant of the said ninety-six bottles of said water, Otis H. Wood, has appeared herein and consented to the prayer of the libel, and no objection being signified, it is this eighth day of December, 1908,

Ordered, adjudged, and decreed that the said ninety-six bottles of liquid labeled "Basic lithia water. Natural carbonic spring water. Basic, Virginia," are misbranded in violation of the Food and Drugs Act approved June thirtieth, 1906, in that the said water is not a lithia water and is not qualified for medicinal purposes; and it is further misbranded in that the said water is not a pure, light, freestone lithia water, is not an uric acid solvent, and is not invaluable as a constant and exclusive drinking water and in the prevention and cure of rheumatism, gout, malaria, typhoid fever, and diseases of the kidney, liver, blood, and nerves, as stated on the label, in violation of the said Food and Drugs Act approved June thirtieth, 1906.

It is further ordered, adjudged, and decreed that the said liquid contained in the said ninety-six bottles seized as aforesaid is adulterated in violation of the said Food and Drugs Act approved June thirtieth, 1906, in that the said water is contaminated with the presence of the colon group of organisms, and is accordingly unfit for human consumption, and is deleterious to health.

And it is ordered that the said ninety-six bottles with contents be disposed of by destruction, as prayed in the libel, and that the said claimant, Otis H. Wood, pay all the costs of these proceedings.

By the court.

THOS. H. ANDERSON, *Justice.*

The facts in the case were as follows:

On or about November 9, 1908, an inspector of the Department of Agriculture found in the possession of Otis H. Wood, Washington, D. C., 96 bottles of water, each of which was labeled and branded: "Basic lithia water, natural carbonic spring water, Basic, Virginia. Uric acid solvent. A pure, light, freestone, lithia water. Invaluable as a constant and exclusive drinking water, and in the prevention and cure of rheumatism, gout, malaria, typhoid fever, and diseases of the kidneys, liver, blood, and nerves."

Several samples of the water were subjected to chemical and bacteriological analysis and examination in the Bureau of Chemistry in the Department of Agriculture, and it was found that the water did not con-

tain enough lithia in 2,000 grams to give a spectroscopic test; the amount of lithia present was not weighable, and if present in a quantity appreciable at all, was estimated to be less than one-hundredth parts per million. According to the United States Pharmacopœia, a dose of lithium carbonate is seven and one-half grains, and on this basis it would require many thousand liters of the water seized to contain a medicinal dose. It was evident that the water did not contain a sufficient quantity or consistency of lithia to make it of value for medicinal purposes, and that the statement appearing on the label as to its efficacy in the prevention and cure of various diseases was false and misleading and in violation of section 8 of the act. The water was adulterated within the meaning of section 7 of the act for the reason that it contained the colon group of organisms, which are closely associated with and indicate fecal contamination, thereby rendering the water unfit for human consumption. Accordingly, on November 9, 1908, the facts were reported to the United States attorney for the District of Columbia and libel for seizure and condemnation, under section 10 of the act, was duly filed in the court aforesaid, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., May 4, 1909.

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(N. J. 60.)

**ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.**

(AS TO PRESENCE OF WHEAT AND MAIZE.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 28th day of December, 1908, in the district court of the United States for the district of Maryland, in a prosecution by the United States against Louis Horpel, trading as Louis Horpel & Company, in Baltimore, Md., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Maryland to Delaware of adulterated and misbranded buckwheat flour, that is say, flour contained in packages labeled "Mountain Ready Prepared Buckwheat," which consisted in part of wheat flour

and corn meal, the said Louis Horpel entered a plea of guilty, whereupon the court imposed a fine of ten dollars.

The facts in the case were as follows: On December 14, 1907, an inspector of the Department of Agriculture purchased from Tayler & Reynolds, Elkton, Md., samples of a product labeled and branded "Mounten Ready Prepared Buckwheat. Serial No. 289. Louis Horpel & Co., 920-30 Clifford St., Balto., Md." The goods had been packed and shipped by Louis Horpel & Company to the W. D. Mullen Company, Wilmington, Del., from which company they were purchased by said Tayler & Reynolds. One of the samples was subjected to analysis in the Bureau of Chemistry, in the Department of Agriculture, and it was found to consist of a mixture of buckwheat, wheat, and maize.

In "Standard of Purity for Food Products" established under authority of the act of March 3, 1903, and published as Circular 19 of the Office of the Secretary of the United States Department of Agriculture, buckwheat flour is defined as follows:

Buckwheat flour is bolted buckwheat meal and contains not more than twelve (12) per cent of moisture, not less than one and twenty-eight hundredths (1.28) per cent of nitrogen, and not more than one and seventy-five hundredths (1.75) per cent of ash.

It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the Food and Drugs Act of June 30, 1906, adulterated because it purported to be a flour made of buckwheat, when, in fact, other substances, namely, wheat and corn products, had been substituted in part for buckwheat flour, thereby reducing and lowering its quality and strength. It was misbranded because labeled and sold as buckwheat flour, whereas it was a mixture of buckwheat, wheat, and maize.

The Secretary of Agriculture on July 21, 1908, afforded the manufacturer an opportunity to show any fault or error in the findings of the analyst, and he having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the district of Maryland, who filed an information against the said defendant with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., May 4, 1909.

(N. J. 61.)

**MISBRANDING OF VINEGAR.**

(AS TO LOCATION AND NAME OF MANUFACTURER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of January, 1909, in the district court of the United States for the eastern district of Virginia, in a proceeding of libel for seizure and condemnation of 15 barrels of vinegar, misbranded as to place of manufacture and name of manufacturer, that is to say, vinegar manufactured by the Baltimore Manufacturing Company in Baltimore, Md., but which was labeled and branded "Old Southern Syrup Vinegar, Spence-Nunnamaker Co., Richmond, Va.," wherein the United States was libelant and the Baltimore Manufacturing Company, of Baltimore, Md., was claimant, the cause having come on for hearing and the said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF VIRGINIA.

UNITED STATES OF AMERICA      }  
 vs.                                    }  
 FIFTEEN BARRELS OF VINEGAR.    }

On motion of the district attorney, and it appearing to the court that upon the libel filed herein on the 6th day of January, 1909, monition was duly issued and served, and by virtue of such process the marshal seized and took into his possession the fifteen barrels of vinegar described in said libel, labeled and branded as "Old Southern Syrup Vinegar, Spence-Nunnamaker Co., Richmond, Va., Guaranteed under the Food and Drugs Act June 30, 1906, No. 19610, Natural Color;" and it further appearing that the claimant of said vinegar, the Baltimore Manufacturing Company, of Baltimore, Maryland, appeared before this court on this 14th day of January, 1909, and consented that a decree of condemnation should be entered in accordance with the prayer of the libel, it is, therefore, now

Adjudged, ordered, and decreed that the said fifteen barrels of vinegar, labeled and branded as aforesaid, be, and they are hereby, declared, as charged in the libel, to be misbranded, in violation of the act of June 30, 1906, contained in 34 Statutes at Large, page 768 et seq., entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" and it is further ordered that the said fifteen barrels of vinegar, branded as aforesaid, be, and they are hereby, condemned and ordered to be disposed of by sale at public auction by the marshal, after due advertisement for five days in some newspaper published in the city of Richmond, Va., the proceeds arising from said sale, less the legal costs and charges, to be paid into the treasury of the United States.

It is provided, however, that upon payment within fifteen days from the date of this decree of all costs of this proceeding, including all of the expenses

incurred by the marshal in and about the seizure of said vinegar, and the storage and watching of and insurance upon the same, if any, and the execution by the said claimant, the Baltimore Manufacturing Company, of Baltimore, Maryland, or some one for it, of a good and sufficient bond in the penalty of two hundred dollars (\$200.00), with proper security, to be approved by the court, conditioned that the vinegar aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the said act or the laws of any State, Territory, district, or insular possession of the United States, and that said vinegar be properly labeled and branded in accordance with the said act, the said vinegar may be delivered to the said claimant.

Richmond, Va., January 14, 1909.

The facts in the case were as follows:

On or about January 5, 1909, an inspector of the United States Department of Agriculture found in the possession of the Spence-Nunnamaker Co., Richmond, Va., 15 barrels of vinegar, each barrel being labeled on the head end "Old Southern Syrup Vinegar, Spence-Nunnamaker Co., Richmond, Va.," and on the other end "Guaranteed under the Food and Drugs Act, June 30, 1906, No. 19610. Natural Color." The vinegar had been shipped by the Baltimore Manufacturing Company, Baltimore, Md., to the Spence-Nunnamaker Co., Richmond, Va., on December 31, 1908. The product was misbranded within the meaning of section 8 of the act, because labeled in a manner which represented its manufacture by the Spence-Nunnamaker Co., at Richmond, Va., whereas as a matter of fact the vinegar was manufactured by the Baltimore Manufacturing Company, at Baltimore, Md.

On January 5, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the eastern district of Virginia, and libel for seizure and condemnation of said vinegar under section 10 of the act, was duly filed in the court aforesaid, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 4, 1909.*

(N. J. 62.)

#### MISBRANDING OF VINEGAR.

(AS TO LOCATION AND NAME OF MANUFACTURER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations

for the enforcement of the act, notice is given that on the 14th day of January, 1909, in the district court of the United States for the eastern district of Virginia, in a proceeding of libel for condemnation of 50 barrels and 25 half-barrels of vinegar misbranded as to place of manufacture and name of manufacturer, that is to say, vinegar manufactured by the Baltimore Manufacturing Company in Baltimore, Md., but which was labeled "Monarch Brand Syrup, Natural Color, Vinegar. E. A. Saunders' Sons' Company, Richmond, Va.," wherein the United States was libelant and the Baltimore Manufacturing Company, of Baltimore, Md., was claimant, the cause having come on for a hearing and the said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT  
OF VIRGINIA.

UNITED STATES OF AMERICA  
vs.

FIFTY BARRELS AND TWENTY-FIVE HALF-BARRELS OF VINEGAR. }

On motion of the district attorney, and it appearing to the court upon the libel filed herein on the 6th day of January, 1909, monition was duly issued and served, and by virtue of such process, the marshal seized and took into his possession the fifty barrels and twenty-five half-barrels of vinegar described in said libel, labeled and branded as "Monarch Brand Syrup, Natural Color, Vinegar. E. A. Saunders' Sons' Company, Richmond, Va.—Guaranteed under Food and Drugs Act, June 30, 1906, No. 19610;" and it further appearing that the claimant of said vinegar, the Baltimore Manufacturing Company, of Baltimore, Maryland, appeared before this court on this 14th day of January, 1909, and consented that a decree of condemnation should be entered in accordance with the prayer of the libel, it is, therefore, now

Adjudged, ordered, and decreed that the said fifty barrels and twenty-five half-barrels of vinegar, labeled and branded as aforesaid, be, and they are hereby, declared, as charged in the libel, to be misbranded, in violation of the act of June 30, 1906, contained in 34 Statutes at Large, page 768 et seq., entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" and it is further ordered that the said fifty barrels and twenty-five half-barrels of vinegar, branded as aforesaid, be, and they are hereby, condemned and ordered to be disposed of by sale at public auction by the marshal, and after due advertisement for five days in some newspaper published in the city of Richmond, Va., the proceeds arising from said sale, less the legal costs and charges, to be paid into the Treasury of the United States.

It is provided, however, that upon payment within fifteen days from the date of this decree of all costs of this proceeding, including all of the expenses incurred by the marshal in and about the seizure of said vinegar, and the storage and watching of and insurance upon the same, if any, and the execution by the said claimant, the Baltimore Manufacturing Company, of Baltimore, Maryland, or some one for it, of a good and sufficient bond in the penalty of five hundred

dollars (\$500.00), with proper security, to be approved by the court, conditioned that the vinegar aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the said act or the laws of any State, Territory, district, or insular possession of the United States, and that said vinegar be properly labeled and branded in accordance with the said act, the said vinegar may be delivered to the said claimant.

Richmond, Va., January 14, 1909.

The facts in the case were as follows:

On or about January 6, 1909, an inspector of the United States Department of Agriculture found in the possession of E. A. Saunders' Sons' Co., Richmond, Va., 50 barrels and 25 half-barrels of vinegar, each barrel being labeled on the head end "Monarch Brand Syrup, Natural Color, Vinegar. E. A. Saunders' Sons' Co.," and on the other end "Guaranteed under the Food and Drugs Act, June 30, 1906, No. 19610." The vinegar had been shipped by the Baltimore Manufacturing Company from Baltimore, Md., to the E. A. Saunders' Sons' Co. on December 28, 1908. The product was misbranded within the meaning of the act because labeled in a manner which represented its manufacture by the E. A. Saunders' Sons' Co., at Richmond, Va., whereas, as a matter of fact, the vinegar was manufactured by the Baltimore Manufacturing Company, in Baltimore, Md.

On January 5, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the eastern district of Virginia, and libel for seizure and condemnation of said vinegar, under section 10 of the act, was duly filed in the court aforesaid, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 4, 1909.*

(N. J. 63.)

#### **MISBRANDING OF CANNED CORN.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of January, 1909, in the district court of the United States for the district

of Colorado, in a proceeding of libel for seizure and condemnation of 400 cases of canned corn misbranded as to weight, in this, that each case was labeled and branded "2 Doz. 2 Lbs. Standard Quality Sugar Corn. Packed by Grand Island Canning Co., Grand Island, Nebraska," whereas the average gross weight of each can contained in the cases was 1½ pounds, wherein the United States was libelant and the Plummer Mercantile Company, a corporation of Denver, Colo., was claimant, the said claimant having admitted the allegations of the libel, and the cause having come on for further hearing, the court adjudged the corn misbranded and entered its decree in substance and in form as follows:

UNITED STATES OF AMERICA,  
*District of Colorado, ss:*

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA, *Libelant,*, }  
vs. } No. 2230. Order.  
FOUR HUNDRED CASES OF CANNED CORN.

In this cause, it appearing to the court that (the said United States of America, by Thomas Ward, jr., United States attorney for the district of Colorado, and the Plummer Mercantile Company, a corporation, the claimants and owners of the property seized herein, by J. W. Plummer, its president, consenting thereto) under the process issued in this cause, 344 cases of canned corn were seized by the United States marshal at the city and county of Denver, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that the said cases were misbranded, in this, that the said cases purported to contain two dozen cans of corn, each can containing two pounds of corn; whereas, in truth and in fact, the said cans in said cases did not contain to exceed twenty-two ounces of corn, and the said brands upon the said cases were, therefore, misleading and calculated to deceive purchasers;

And it further appearing, by like consent, that said The Plummer Mercantile Company has agreed that an order may be entered at once, condemning and confiscating said property to the United States;

It is, therefore, ordered, adjudged, and decreed that the said property above described, now in the possession of the marshal of the court, be, and the same is hereby, declared to be forfeited and confiscated to the United States;

It is further ordered, however, that upon payment by said The Plummer Mercantile Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond, to be filed with the clerk in this cause, conditioned that this property shall not be sold or otherwise disposed of contrary to the provisions of the act (ch. 3915, 59th Congress) commonly known as the Pure Food and Drugs Act (act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to said The Plummer Mercantile Company, or its agents.

By the court.

ROBT. E. LEWIS, *Judge.*

JAN. 14, 1909.

It is hereby stipulated and agreed that the foregoing order may be entered of record in the above cause.

THOMAS WARD, Jr.,  
*United States Attorney for the District of Colorado.*

[SEAL]

THE PLUMMER MERCANTILE COMPANY,  
By J. W. PLUMMER, *President.*

The facts in the case were as follows:

On or about January 13, 1909, an inspector of the Department of Agriculture found in the possession of The Plummer Mercantile Company, of Denver, Colo., four hundred cases of canned corn which had been packed, and shipped to it by the Grand Island Canning Company, of Grand Island, Nebr. The shipping cases, each of which contained twenty-four cans, were labeled and branded "2 Doz. 2 Lbs. Standard Quality Sugar Corn. Packed by Grand Island Canning Co., Grand Island, Nebraska," and each can also bore the following: "Dutchess High Grade Sugar Corn. Grand Island Canning Co., Grand Island, Nebraska." A number of the cans were weighed by the inspector, and the average gross weight per can was found to be 1 pound 8 ounces.

On January 13, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado, and a libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
GEO. P. McCABE,  
F. L. DUNLAP,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 4, 1909.*

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## United States Department of Agriculture,

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U. S. Department of Agriculture.

## NOTICE OF JUDGMENT NOS. 64-65, FOOD AND DRUGS ACT.

64. Misbranding of canned apples (Underweight).  
 65. Misbranding of beer (As to quantity of alcohol).

(N. J. 64.)

## MISBRANDING OF CANNED APPLES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 70 cases of canned apples, a proceeding of libel for seizure and condemnation of the said goods, under section 10 of the aforesaid act, in the district court of the United States for the district of Indiana. The apples were misbranded in this, each can was labeled and branded "2 doz. 3 lb. Moss Rose Brand Apples. Packed by the Elyria Canning Company, Elyria, Lorain County, Ohio," whereas, in fact, the gross weight of the cans varied from 2 pounds 3.75 ounces to 2 pounds 6.25 ounces. No claimant having appeared, and the cause having come on to be heard on December 7, 1908, upon the decree pro confesso, theretofore entered, the court adjudged the goods misbranded and entered its final decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF  
 INDIANA.

UNITED STATES  
 vs.  
 SEVENTY CASES OF CANNED APPLES. } No. 6872. Decree.

This cause came on to be heard on the libel and decree pro confesso heretofore entered herein.

The court having considered the same, it is ordered, adjudged, and decreed that the said seventy cases of canned apples are hereby condemned as being misbranded as to the statements of weight on the labels attached to said cases under the provisions of the Food and Drugs Act of June 30, 1906.

It is further ordered, adjudged, and decreed that the said seventy cases of canned apples be sold at public sale, to the highest bidder, for cash by the United States marshal, at the south door of the Delaware county court house, in the city of Muncie, in said district, after due notice as provided by law and the rule and practice of this court, and that the marshal pay into the registry

of said court all moneys realized from said sales. All costs taxed in this cause shall be first paid from said sum of money and the residue, if any, shall be paid into the Treasury of the United States for the use and benefit of the said United States and to that end it is ordered that the clerk of this court issue a writ of *venditioni exponas* to the said marshal, returnable as required by the rules and practices of this court, and that the said marshal execute the same and make due return thereof with all convenient speed.

It is further ordered, adjudged, and decreed that the marshal before making such sale shall obliterate all marks, brands, and labels as to statements of weight of said cans of apples appearing thereon in violation of the provisions of the Food and Drugs Act of June 30, 1906.

All of which is finally ordered, adjudged, and decreed.

In accordance with the aforesaid decree the goods were, on January 12, 1909, sold at public auction for the sum of \$49.20, which sum, less the legal costs, was paid into the Treasury of the United States.

The facts in the case were as follows:

On or about September 14, 1908, an inspector of the Department of Agriculture found in the possession of Joseph A. Goddard & Company, of Muncie, Ind., 70 cases of canned apples labeled "2 doz. 3 lb. Moss Rose Brand Apples. Packed by the Elyria Canning Company, Elyria, Lorain County, Ohio." No statement of weight was made upon any of the individual cans. The goods had been packed and shipped to Joseph A. Goddard & Company by the Elyria Canning Company, Elyria, Ohio. A number of the cans were weighed by the inspector with the result that the average gross weight of each can was found to be from 2 pounds 3.75 ounces to 2 pounds 6.25 ounces.

The Secretary of Agriculture on September 14, 1908, reported the above facts to the United States attorney for the District of Indiana, who filed a libel for seizure under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *May 5, 1909.*

(N. J. 65.)

**MISBRANDING OF BEER.**

(AS TO QUANTITY OF ALCOHOL.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 17th day of

December, 1908, in the district court of the United States for the district of Kansas, in a prosecution by the United States against the Heim Brewing Company, a corporation of Kansas City, Mo., for violation of section 2 of the aforesaid act in introducing into Kansas from Missouri and in shipping and delivering for shipment from Missouri to Kansas a quantity of bottled beer, misbranded as to the amount of alcohol contained therein, the said Heim Brewing Company having entered a plea of guilty, judgment was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS,  
FIRST DIVISION.

THURSDAY, *December 17, 1908.*

THE UNITED STATES OF AMERICA  
vs.  
THE HEIM BREWING COMPANY, A CORPORATION. } No. 3927.

Now comes as well the United States of America, by J. S. West, assistant district attorney, as said defendant The Heim Brewing Company, a corporation, by J. A. Finley, its traveling auditor, being duly authorized to appear and plead on behalf of said defendant. Thereupon said defendant, through its said authorized agent, being arraigned upon the information herein filed, enters its plea of guilty thereto.

Thereupon it is now by the court here considered, ordered, and adjudged that said defendant The Heim Brewing Company, a corporation, make its fine unto the United States of America in the sum of one hundred (\$100.00) dollars, and that it pay the costs of this prosecution.

The facts in the case were as follows:

On November 4, 1908, Dr. S. J. Crumbine, secretary of the State board of health of Kansas, acting under authorization of the Secretary of the United States Department of Agriculture in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, procured from the sheriff of Harvey County, Kans., in pursuance of an order of court therefor, seven barrels labeled "Kind, H. O. B.; #A949; Fargo; CROWNS: CROCKERY for Rim Conrad, Newton, Kans., H. O. B. L. S." (in pencil) "(1) (9), 9-26," and filled with bottles labeled and branded "Hop-On. HB. (#11) Heim Brewery, Branch of the Kansas City Breweries Co. A mild beer, containing 1.82 per cent of alcohol. Guaranteed to comply with the Pure Food & Drugs Act of June 30, 1906, and Kansas Pure Food Law." This beer had been shipped by the Heim Brewing Company from Missouri to Newton, Kans., and was confiscated and ordered destroyed by the court in case of State of Kansas *v.* Conrad et al. A number of samples was subjected to analysis by a collaborating chemist of the Bureau of Chemistry of the Department of Agriculture, with the result that alcohol was found to be present in quantity varying from 4.41 per cent to 4.78 per cent.

The Heim Brewing Company having been afforded an opportunity to show any fault or error in the findings of the analyst, and having failed to do so, the facts were reported to the United States attorney for the district of Kansas, who filed an information against the said Heim Brewing Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved :

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., May 5, 1909.

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United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

**NOTICE OF JUDGMENT NOS. 66-67, FOOD AND DRUGS ACT.**

66. Misbranding and adulteration of stock feed (As to presence of ground corn cobs, etc.).  
67. Misbranding of butter (As to location and name of manufacturer).

(N. J. 66.)

**MISBRANDING AND ADULTERATION OF STOCK FEED.**

(AS TO PRESENCE OF GROUND CORN COBS, ETC.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 500 bags of stock feed, a proceeding of libel for seizure and condemnation of said stock feed, under section 10 of the aforesaid act, wherein The Capital Grain and Mill Company, of Nashville, Tenn., was claimant, lately pending, and finally determined on November 11, 1908, in the district court of the United States for the eastern district of Virginia, by entry of a decree of forfeiture, condemnation, and sale of the said stock feed, upon condition, however, that upon payment by the claimant of all costs and the execution and delivery by it of a good and sufficient bond, under the provisions of said section 10, and upon the further condition that the said stock feed should be properly labeled and branded, the said stock feed might be redelivered to the claimant. The said stock feed was contained in 250 sacks branded "Mixed (Bran) Feed. Made from pure winter wheat bran and ground ear corn," and in 250 sacks branded "Mixed (Middling) Feed. Made from pure winter wheat middlings and ground ear corn." The product was a mixture of wheat bran and ground corn cobs, with practically no ground corn kernel, and was adulterated within the meaning of section 7 of the aforesaid act in that ground corn cobs were substituted in part for ground ear corn, whereby its quality and strength were reduced and lowered, and was misbranded within the meaning of section 8 of the aforesaid act in that the brands bore false, misleading, and deceptive statements, that is to say, that the product was mixed wheat bran and ground ear corn and mixed wheat middlings and ground ear corn, whereas in fact it contained practically no ground ear corn.

The said claimant having admitted the allegations of the libel, and the cause having come on for final hearing, on the date hereinbefore stated, the court rendered its decree in substance and in form as follows:

LIBRARY RECEIVED JUN 9 1909  
U.S. Department of Agriculture

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT  
OF VIRGINIA.

UNITED STATES OF AMERICA, *Libelant*,  
vs.  
FIVE HUNDRED BAGS OF STOCK FEED, WHEREOF  
The Capital Grain and Mill Company is claim-  
ant, *Respondent*.

On motion of the district attorney, and it appearing to the court that upon the libel filed herein on the 17th day of June, 1908, monition was duly issued and served, and by virtue of such process the marshal seized and took into his possession the five hundred bags of stock feed, two hundred and fifteen bags whereof being labeled and branded as "Mixed (Bran) Feed. Made from Pure Winter Wheat Bran and Ground Ear Corn," and the remaining two hundred and fifty bags of which being labeled and branded as "Mixed (Middling) Feed. Made from Pure Winter Wheat Middlings and Ground Ear Corn;" and it further appearing that the claimant of said five hundred bags of stock feed, The Capital City Grain and Mill Company, appeared before this court on the 29th day of June, 1908, and consented that a decree of condemnation should be entered in accordance with the prayer of the libel, it is, therefore, now

Adjudged, ordered, and decreed that the said five hundred bags of stock feed, labeled and branded as aforesaid, be, and they are hereby, declared, as charged in the libel, to be misbranded, in violation of the act of June 30, 1906, contained in 34 Statutes at Large, page 768 et seq., entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" and it is further ordered that the said five hundred bags of stock feed, branded as aforesaid, be, and they are hereby, condemned and ordered to be disposed of by sale at public auction by the marshal, after due advertisement for five days in some newspaper published in the city of Norfolk, Virginia, as prayed for in said libel, and provided for in the said act of June 30, 1906, the proceeds arising from such sale, less the legal costs and charges, to be paid into the Treasury of the United States.

It is provided, however, that upon payment, within thirty days from date of this decree, of all costs of this proceeding, including the expenses incurred by the marshal in and about the seizure of said stock feed and the storage and watching of and insurance upon the same, the said stock feed may be delivered to the said claimant in compliance with the terms of the bond in the penalty of \$500.00 heretofore filed in accordance with section 10 of the aforesaid act, conditioned that said stock feed shall not be sold or otherwise disposed of contrary to the provisions of the aforesaid act, or the laws of any State, Territory, district, or insular possession of the United States, and that the said stock feed shall be properly labeled and branded in accordance with said act.

EDMUND WADDILL, Jr.,  
*U. S. District Judge.*

NORFOLK, VA., November 11, 1908.

The facts in the case were as follows:

On or about June 15, 1908, an inspector of the Department of Agriculture found in course of transportation a consignment of 500 bags, weighing 80 pounds each, of a stock feed, 250 bags of which were labeled and branded "Mixed (Bran) Feed. Made from pure winter wheat bran and ground ear corn," and the remaining 250 bags, "Mixed

(Middling) Feed. Made from pure winter wheat middlings and ground ear corn." The feed had been shipped and consigned to D. P. Reid and Brother, Norfolk, Va., by The Capital Grain and Mill Company of Nashville, Tenn., on June 13, 1907. Samples of the feed were subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the results showed that the product consisted of a wheat product, probably middlings, and ground corn cobs, and only a trace of ground corn kernels. It was evident, therefore, that the feed was adulterated and misbranded in violation of sections 7 and 8 of the Food and Drugs Act of June 30, 1906.

Accordingly, on June 16, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of Virginia, and libel for seizure and condemnation of the goods, under section 10 of the act, was duly filed, with the results hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., May 11, 1909.

(N. J. 67.)

#### MISBRANDING OF BUTTER.

(AS TO NAME AND LOCATION OF MANUFACTURER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 13 boxes of butter, a proceeding of libel for seizure and condemnation of said butter, under section 10 of the aforesaid act, wherein The Fox River Butter Company of Cincinnati, Ohio, was claimant, lately pending, and finally determined on December 11, 1908, in the district court of the United States for the southern district of Ohio by the entry of an order directing the marshal to redeliver said butter to said claimant upon payment by it of all costs of the proceeding and execution of a proper bond prescribed by said section 10.

The butter was misbranded, within the meaning of section 8 of the aforesaid act, as alleged in the libel, as follows:

## II.

Your libelant represents to the court that each box of butter is labeled, marked, or branded on the outside as follows: "White Clover Brand Butter. The Elgin Butter Company, Elgin, Illinois," and that each package contained in each box of butter is labeled, marked, and branded as follows: "White Clover Brand Butter. The Elgin Butter Company, Elgin, Illinois. This famous butter is made in the only and original Elgin (Illinois) Creameries, established 1870. We created the name of Elgin Butter and established its reputation throughout the United States."

\* \* \* \* \*

## IV.

Your libelant says that the said thirteen boxes of butter, branded as aforesaid, are illegally held and that said articles are misbranded in violation of the act of Congress of June 30, 1906, and liable to condemnation as provided therein, for the reason that each and every package of butter contained in said thirteen boxes purports to contain Elgin creamery butter made at Elgin, Illinois, whereas in truth and in fact none of said packages of butter were made at the Elgin Creamery at Elgin, Illinois, but were made by Gus H. Weber, at his creamery near Elba, Wisconsin, and were shipped by him from Elba, Wisconsin, to Cincinnati, Ohio, and the branding of said packages is misleading and false so as to deceive and mislead the purchaser as to the kind and quality of butter in said packages, and it is, therefore, a misbranding within the meaning of said act of Congress.

The claimant having admitted the allegations of the libel, and the case having come on for final hearing on the date hereinbefore stated, the court entered its order, as aforesaid, in substance and in form as follows:

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION.

UNITED STATES OF AMERICA, }  
vs. } No. 1955.  
13 BOXES OF BUTTER. }

## ORDER.

The claimants of the butter herein referred to having admitted in open court that the facts and statements contained in the libel herein are true, and having presented bond in the sum of three hundred (\$300.00) dollars, as provided in section 10 of the act of Congress, approved June 30, 1906,

It is hereby ordered that upon payment of the costs of this action, and the approval of said bond by the clerk as to its efficiency, the marshal is directed to release to the claimant, to-wit, The Fox River Butter Company, the cases of butter seized herein.

The facts in the case were as follows:

On or about December 8, 1908, an inspector of the Department of Agriculture found in the possession of The Fox River Butter Company, at Cincinnati, Ohio, 13 boxes of butter labeled "White Clover Brand Butter. The Elgin Butter Company, Elgin, Illinois." Each box or shipping case contained 60 packages of 1 pound each, labeled and

branded "White Clover Brand Butter. The Elgin Butter Company, Elgin, Illinois. This famous butter is made in the only and original Elgin (Illinois) Creameries, established 1870. We created the name of Elgin Butter and established its reputation throughout the United States." The butter had been manufactured at Elba, Wis., by Gus H. Weber, and was shipped by him from said city to The Fox River Butter Company, Cincinnati, Ohio. It was evident, therefore, that the labels on the shipping boxes and on the packages of goods were grossly false, misleading, and deceptive, and in violation of section 8 of the act. Accordingly, on December 9, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the southern district of Ohio, and libel for seizure and condemnation, under section 10 of the act, was duly filed, with the result hereinbefore stated.

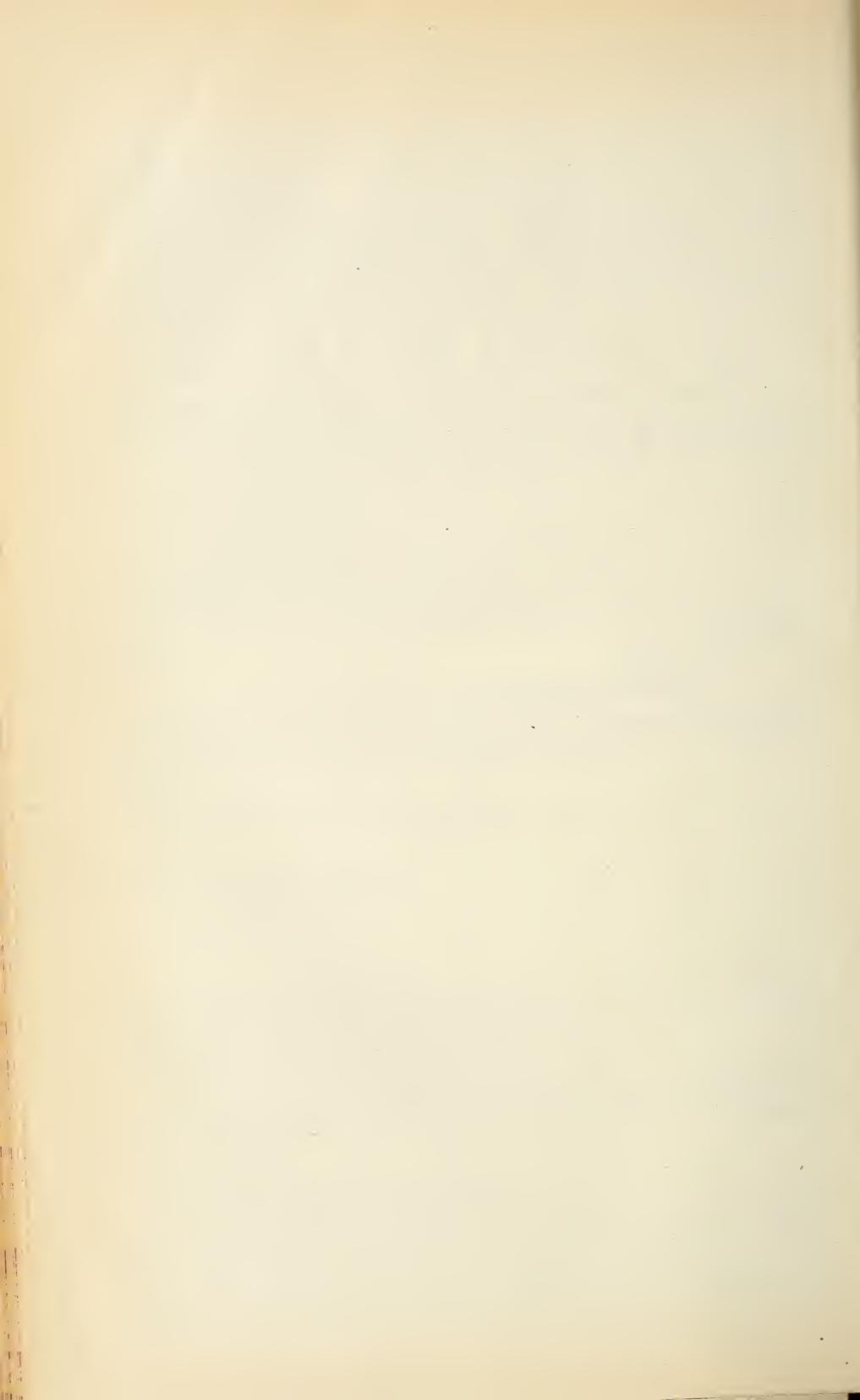
H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

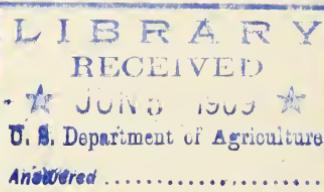
JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 11, 1909.*









United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

**NOTICE OF JUDGMENT NO. 68, FOOD AND DRUGS ACT.**

**MISBRANDING OF WHISKY.**

(AS TO PRESENCE OF WHISKY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 50 barrels of whisky, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending, and finally determined by entry of a decree of forfeiture and condemnation on December 19, 1908, in the district court of the United States for the district of Maryland, wherein the Louisiana Distillery Company, Ltd., a corporation of New Orleans, La., was claimant. The so-called whisky was misbranded within the meaning of section 8 of the act, in that the barrels containing it were labeled and branded "Bourbon Whiskey," whereas, in fact, it was not Bourbon whisky, but a distilled product of fermented molasses, manufactured and produced in New Orleans, La.

INTERVENTION, CLAIM, EXCEPTION AND ANSWER OF THE LOUISIANA DISTILLERY COMPANY.

To the libel of the United States for seizure and condemnation of the so-called whisky, the Louisiana Distillery Company, the manufacturers and shippers of said whisky, intervened and filed its claim, exceptions, and answer, wherein, as matter of exception, it was alleged that the court was without jurisdiction of the proceeding, because it did not appear from the libel "that notice was given to any person whatsoever of any analysis or examination of the whisky attached under said libel before the libel herein was filed, as required by the act of Congress approved June 30, 1906."

The foregoing exception of the claimant having duly come on for hearing, and having been fully argued, the court overruled the exception and pronounced its ruling thereon as follows:

RULING OF THE COURT ON EXCEPTION TO JURISDICTION.

MORRIS, *District Judge* (orally): In this case, which is a libel for the seizure and forfeiture of 50 barrels of distilled spirits alleged to be misbranded contrary

to the provisions of the act of Congress of June 30, 1906, the libel does not allege that there had been any preliminary examination such as is provided for by section 4 of the act.

The claimant has excepted to the libel upon the ground that the court has no jurisdiction unless such a preliminary examination has preceded the seizure.

It is urged that the harshness of the proceeding in seizing goods alleged to be misbranded without giving the owner the opportunity of being heard as to their true nature is such that the court should if possible construe the law so as to require the examination as a prerequisite to seizure. Such seizures are not unusual, and it is plain that if the harshness were conceded, it would not justify the court in reading into the law a limitation which it does not contain. The act provides two different proceedings to enforce the provisions. One is by a criminal proceeding in personam; the other is by a proceeding in rem, by seizure of the offending thing itself, and forfeiture if found to be in violation of the law. In this latter case there is no provision for a preliminary examination. Section 10 of the act provides that any article of food, drugs, or liquor that is adulterated or misbranded, which is being transported from one State to another, shall be liable to be proceeded against and seized for confiscation by process of libel for condemnation. It is further provided that the proceedings of such libel cases shall conform as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case. The libel alleges that fifty barrels of distilled liquor are now at a named place within the district, having been transported from the city of New Orleans, in Louisiana, to Baltimore, Maryland, branded "Bourbon Whiskey," which brand indicates a liquor containing all the congeneric substances obtained by distillation from a fermented mixture of grain, of which Indian corn forms the chief part, and confined to whiskey distilled in the State of Kentucky, and that the fifty barrels of distilled liquor in question, branded Bourbon Whiskey, are not whiskey at all but a distillate of molasses. The libel then prays that the fifty barrels of liquor may be proceeded against and seized for condemnation, in accordance with the act of Congress approved June 30, 1906, and prays the court to order process of attachment in due process of law, and that all persons having or pretending to have any right, title, or claim in said liquor may be cited to appear and answer the premises. This is according to the course of proceeding in libels in admiralty and in similar proceedings in rem for forfeitures for violation of the internal revenue laws. Such seizures are made in cases in which forfeiture of the goods is the penalty, without preliminary examination or proceedings of any kind, in cases of violation of the customs laws and the shipping regulations, as well as violations of the internal revenue laws.

The exception is overruled.

The case having duly come on for further hearing on the facts as alleged in the libel of the United States and the answer of claimant, and a jury having been demanded by the claimant, the issues were submitted to a jury upon testimony, argument of counsel, and the following instructions of the court:

#### INSTRUCTIONS OF THE COURT TO THE JURY.

**THE COURT:** I will not call upon counsel for the United States to reply. The case as it is presented to the jury is a very clear one. I reject the only prayer offered by the defense. Really, that prayer concedes the misbranding of the liquor, and asks me to say to the jury that if they shall find that this was done

under the control and by the agents of the United States, the United States, which is the plaintiff in this case, is estopped from proceeding to condemn these goods and forfeit the goods for misbranding. That proposition I reject. Every one who deals with agents of the United States deals with them with the knowledge imputed to him of the restriction upon their authority. It seems to me it can not be successfully contended that any agent of the United States has authority to do a thing which is forbidden by law; and it is forbidden by this law passed in 1906, the Pure Food Law, to misbrand any goods which are intended to be or are actually transported from one State to another. Of course the gentlemen of the jury would know, or should know, that the United States has no authority, under the Constitution of the United States, to regulate the sale of goods within the limits of a State. It is only when they are transported from one State to another, and become a part of interstate commerce of the country, that the United States has the authority to pass laws regulating them. So this liquor, without infraction of any law so far as I know, might have been offered for sale and sold in Louisiana, unless there is some law of Louisiana which prohibits the misbranding of or misrepresentation with regard to the constituents of an article that is offered for sale. It is only, therefore, when these goods become a part of the interstate commerce of the country that this Pure Food Law of 1906 applies to them, that "misbranding" shall apply to the placing on the package of any statement which shall be false or misleading in any particular, and provides that any article misbranded, which is transported from one State to another for sale, is liable to confiscation. Therefore I do not think that anything that was done in the distillery in Louisiana, in New Orleans, in any way estops the United States or estops the authorities, or the agents of the United States in Maryland, from proceeding to condemn these goods upon the ground that they were misbranded. It would be destructive of the enforcement of many of the laws of the United States if the act of any agent of the United States could be set up as a defense against the explicit law; the explicit law in this case being that any goods that are misbranded shall be forfeited. If any gauger, at the request of a distiller or under a generally understood practice of the distillery, should misbrand an article of liquor, it would be utterly subversive of the law if that could be said to be a defense to the positive enactment of the act of 1906 that misbranding goods that are to be transported from one State to another shall be prohibited. I, therefore, reject that contention on behalf of the claimant of the goods in this case.

Then the jury come to consider what is the real issue which they are to determine, and that is whether these goods are whiskey as known to the trade and to the community generally, and to those who deal in whiskey. If it is not whiskey, of course the case is made out in favor of the United States. If the jury believes—and there is a great deal of testimony to that effect—that the word "whiskey" is applied only to a distillate made of grain, that is an end of the case, an end of the defence in the case, their verdict must be for the United States, because it is admitted in this case, and it is not a question of dispute, that this liquor is not made from grain, but is a distillate of molasses with a slight infusion of sulphuric acid.

But the jury might possibly find that it could be called whiskey. Then there is a second question, can it be called Bourbon whiskey? There is a great deal of testimony to show that "Bourbon whiskey," in its most general sense, is a whiskey made from grain of which corn is the larger constituent. If you find that this was not such a whiskey, then it is not Bourbon whiskey, and your verdict must be for the United States. Then there is testimony also to the effect that "Bourbon whiskey" as understood in the trade is confined to a whiskey made in Kentucky. If you find that to be the fact—and that is for you to decide

entirely on the testimony—if you find that in the trade and among those who deal and who are familiar with the article “Bourbon whiskey” implies that it is made in Kentucky, then of course that is an end of the case so far as the claimant is concerned, because it is admitted that this liquor was made in New Orleans.

I might say that a good deal has been said about the hardship and injustice of condemning an article which once has been branded by the gauger, but I do not think that that appeals very strongly to any one's sense of morality, because a gauger is not a man who is to decide what is the trade name of an article. He takes that largely from the distiller. He is not a dealer in liquor, nor is he a man of science who is to determine once for all, and incontestably, whether it is what it is branded, or something else.

I will now give you the instructions asked for by counsel for the United States. The first prayer is as follows:

The jury are instructed that if from the evidence they shall find the word “whiskey” as understood by scientific men, the liquor trade, and the public generally is confined to a distillate of grain, and shall further find that the contents of the barrels libeled in this case is a distillate of molasses, and that the said barrels were branded Bourbon whiskey, then the said barrels were misbranded, and their verdict must be for the libelant.

The second prayer has reference to the restricted meaning of “Bourbon whiskey,” as applying to whiskey distilled in the State of Kentucky. It is as follows:

The jury are instructed that if they shall find from the evidence in this case that the phrase Bourbon whiskey as defined in the standard works of reference in use in this country, and as understood by scientific men, the liquor trade, and by the public generally, imports a liquor distilled in the State of Kentucky, and shall further find that the contents of the barrels libeled in this case were distilled in New Orleans, in the State of Louisiana; and shall further find that the said barrels were branded Bourbon whiskey, then the barrels were misbranded, and their verdict must be for the libelant.

The third prayer has reference to what you may find from the evidence is the more general acceptance of the words “Bourbon whiskey,” and that does not necessarily require that it shall be made in Kentucky. The instruction is as follows :

The jury are instructed that if they shall find from the evidence that the phrase Bourbon whiskey as understood by scientific men, the liquor trade, and the public generally is confined to a distillate of grain made from the mixture of fermented grain, of which mixture corn constituted the greater part, and shall find that the contents of the barrels libeled in this case are a distillate of molasses, and shall further find that the said barrels are branded Bourbon whiskey, then the said barrels are misbranded, and their verdict must be for the libelant.

I do not think that there is anything that I need say to the jury further, except to remind you that there is no dispute at all as to the material out of which this distillate was made. The whole case, in my judgment, and I so instruct you, turns upon whether the general acceptance of the word “whiskey” imports that it is made from grain. Of course this liquor was not so made.

Further, in regard to Bourbon whiskey, if the term “Bourbon whiskey” implies that the article was made of corn in greater part—not made of molasses but made of grain of which corn was the greater part—then of course it was misbranded.

So, further, if you find that “Bourbon whiskey” is confined to whiskey made in Kentucky, and of grain, and that the larger constituent part must be corn, then of course this would not be “Bourbon whiskey,” because it was not so made.

As to what the testimony has convinced you are the proper meanings, accepted by the trade and by scientific men, of “whiskey” and “Bourbon whiskey,”

these are facts to be found by you from the testimony, which I leave entirely to you. It is my duty to instruct you upon the law and to leave the facts to be found by you.

The jury having returned a verdict that the said whisky was misbranded, on December 19, 1908, the court rendered its decree thereon in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

UNITED STATES OF AMERICA }  
vs.  
FIFTY BARRELS OF WHISKEY. }

The claimant in this cause, having demanded trial by jury of the issues of fact joined hereinbefore, and the said trial by jury having been duly had, and the jury by its verdict having found that the articles libeled in this case were misbranded, in that they were branded "Bourbon Whiskey," and the pleadings and the said verdict of the said jury having been considered and due deliberation having been had,

It is ordered, adjudged, and decreed, this 19th day of December, 1908, that the articles in this case be, and they are hereby, condemned, and the marshal shall completely destroy the same on the eighth day of January, in the year 1909, or so soon thereafter as the said marshal can conveniently complete such destruction, provided, however, that the said article shall be delivered to the claimant thereof, if on or before the fourth day of January, 1909, the claimant shall have paid all the costs of these libel proceedings, and shall have executed to the United States of America a good and sufficient bond in the penal sum of four thousand dollars, with a surety or sureties to be approved by this court, or to the clerk thereof, conditioned that the said articles so libeled shall not be sold or disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906, or to the laws of any State, territory, district, or insular possession.

THOMAS J. MORRIS, *District Judge.*

The facts in the case were as follows:

Investigation by an inspector of the United States Department of Agriculture of the distillery of the Louisiana Distillery Company at New Orleans, La., disclosed that for several years prior thereto the distillery had produced no spirit made from grain mash, but only a product from molasses and water. Subsequent to this investigation, and during the month of November, 1907, evidence was procured that the Louisiana Distillery Company had shipped 50 barrels of whisky from New Orleans to A. L. Webb & Sons, Baltimore, Md., by whom they were received on the 16th day of that month. Each barrel was branded "Bourbon Whiskey." In addition to the evidence procured by the aforesaid inspector, the dump sheets in the possession of the collector of internal revenue for the New Orleans district disclosed that the so-called whisky was a product of fermented molasses. It was apparent, therefore, that the article was not Bourbon whisky, and that the branding of it as such was false, misleading, and deceptive within the mean-

ing of section 8 of the Food and Drugs Act. Accordingly, on November 25, 1907, the Secretary of Agriculture reported the facts to the United States attorney for the district of Maryland, who forthwith filed a libel for seizure and condemnation of the so-called whisky, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

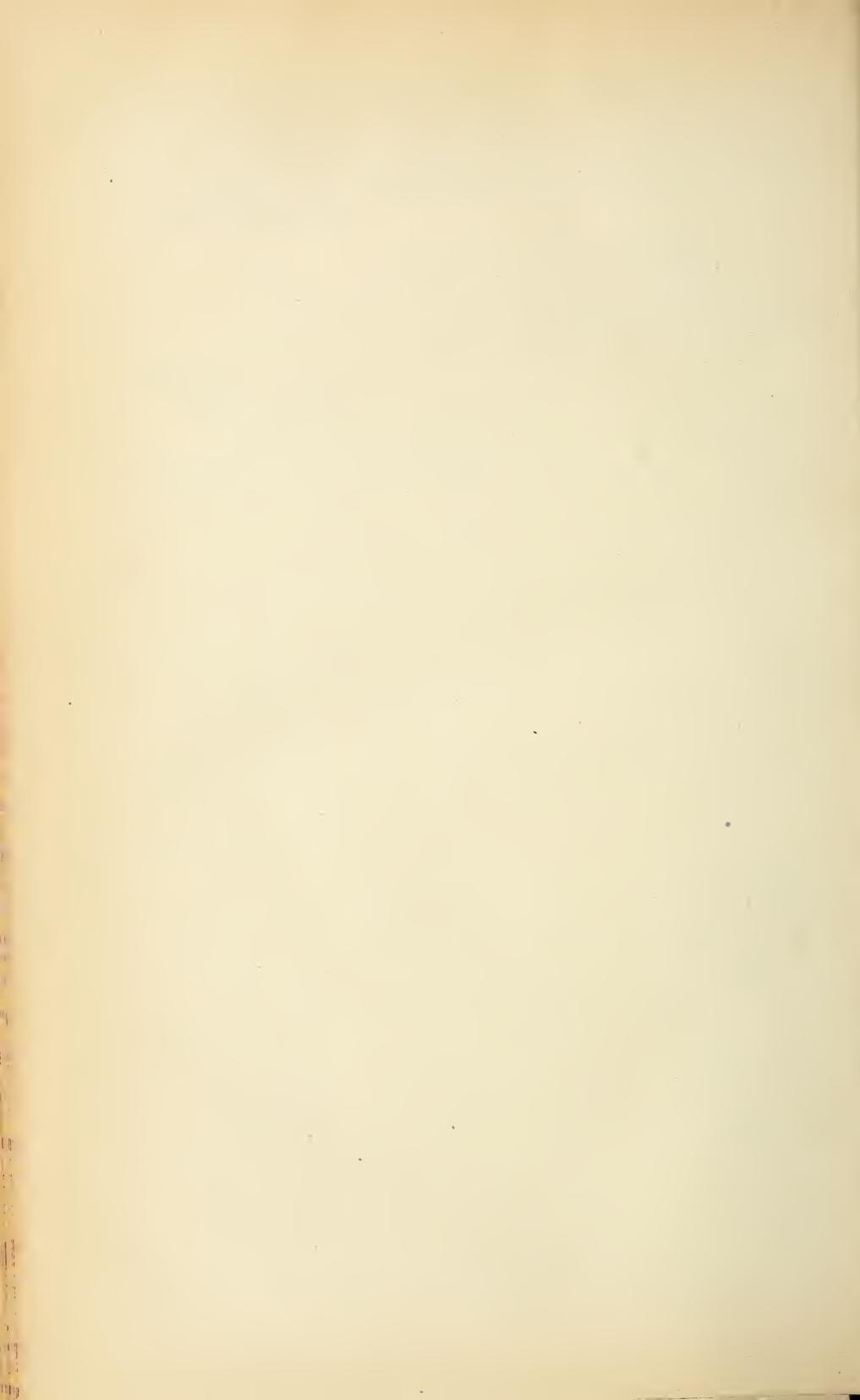
Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *May 14, 1909.*

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# United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

## NOTICE OF JUDGMENT NOS. 69-81, FOOD AND DRUGS ACT.

69. Misbranding of rye flour (As to presence of wheat).
70. Misbranding of canned peas (Underweight).
71. Misbranding of lemon extract (As to presence of lemon oil).
72. Misbranding of canned cherries (Underweight).
73. Misbranding of vinegar (Colored imitation fruit vinegar).
74. Misbranding of maple syrup (As to presence of cane sugar syrup).
75. Adulteration and misbranding of pepper (As to presence of nut shells, fruit pits, etc.).
76. Adulteration of oats (As to presence of barley).
77. Misbranding of canned tomatoes (Underweight).
78. Misbranding of water (As to origin and source).
79. Misbranding of tomato catsup (As to presence of screenings and waste).
80. Misbranding of salad oil (As to origin).
81. Adulteration of milk (Water).

(N. J. 69.)

### MISBRANDING OF RYE FLOUR.

(AS TO PRESENCE OF WHEAT.)



In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 315 sacks of rye flour blended, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending in the district court of the United States for the northern district of Ohio, wherein J. B. A. Kern & Sons, of Milwaukee, Wis., were claimants. The flour was misbranded in violation of section 8 of the act, in this, it was labeled "Kern's Rye Flour Blended," whereas, in fact, it was a mixture of rye and wheat flours. The claimants having filed their answer admitting the allegations of the libel, and the cause having come on for final hearing on October 29, 1908, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF OHIO,  
EASTERN DIVISION.

THE UNITED STATES OF AMERICA, *Libellant*,  
vs.  
315 SACKS OF RYE FLOUR BLENDED, *Respondent*. }

DECREE.

This cause coming on to be heard on the libel of information and the answer to the same filed herein, the court finds that all the allegations contained in the libel of information are confessed and admitted to be true.

That the 315 sacks of flour, more or less, equivalent to seventy-five barrels, purporting and represented to be rye flour blended, were transported from Milwaukee, in the State of Wisconsin, to Cleveland, in the State of Ohio, and at the time of the filing of the libel of information, and at the time of the seizure of the same, remained in original unbroken packages and unloaded at Cleveland, at the northern district of Ohio, and within the jurisdiction of this court.

Wherefore the said 315 sacks of flour are condemned as being misbranded within the meaning of the act of Congress of June 30th, 1906, known as the Food and Drugs Act of June 30th, 1906.

That it is the order of this court that the 315 packages of flour, hereinbefore referred to, shall be sold in the manner and form provided by law; that the proceeds of said sale, less the legal costs and charges thereof, shall be paid into the United States Treasury.

Provided, however, that if within ten days from the entering of this order the costs of this proceeding, taxed at 71.49 dollars, shall be paid and a good and sufficient bond in the sum of one thousand dollars (\$1,000.00) delivered; the said bond being conditioned that the 315 sacks of flour shall not be sold or otherwise disposed of contrary to the provisions of the act of Congress of June 30th, 1906, known as the Food and Drugs Act of June 30th, 1906, nor contrary to the laws of any State, Territory, or insular possession of the United States, that then the said 315 sacks of flour shall be delivered to J. B. A. Kern and Sons, the owners thereof.

October 29, 1908.

The facts in the case were as follows:

On or about September 10, 1908, an inspector of the Department of Agriculture located en route from Milwaukee, Wis., to Cleveland, Ohio, a carload of thirty-five 140-pound sacks, one hundred and twenty 49-pound sacks, and one hundred and sixty 24 $\frac{1}{2}$ -pound sacks of a product labeled "Kerns Rye Flour Blended." The flour had been shipped by J. B. A. Kern & Sons, from Milwaukee, Wis., to themselves at Cleveland, Ohio, with instructions to notify W. Edwards & Co. A sample of the flour was subjected to analysis in the Bureau of Chemistry, Department of Agriculture, and the results showed the presence of wheat flour.

In the opinion of the Department of Agriculture rye flour is the fine, clean, sound product made by bolting rye meal and contains not more than thirteen and one-half (13.5) per cent of moisture, not less than one and thirty-six hundredths (1.36) per cent of nitrogen, and not more than one and twenty-five hundredths (1.25) per cent of ash.

It was evident that the product was misbranded within the meaning of section 8 of the act, for the reason that it was labeled "Rye Flour Blended," whereas it was in fact neither rye flour nor a blend of rye flours, but a mixture of unlike substances, rye flour and wheat flour.

Accordingly on September 11, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the

northern district of Ohio and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

(N. J. 70.)

**MISBRANDING OF CANNED PEAS.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 900 cases of peas, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending in the district court of the United States for the southern district of Ohio, wherein the Van Camp Packing Company of Indianapolis, Ind., was claimant. The peas were misbranded for the reason that the cans in which they were contained were labeled "Standard Sifted Early June Peas. The Van Camp Packing Co., Indianapolis, Ind. Net weight 22 ounces," and "Van Camp's Early June Peas. The Van Camp Packing Co., Indianapolis, Indiana. Net weight 22 ounces," whereas, in fact, the net weight of the cans was considerably less than 22 ounces. The said claimant having admitted the allegations of the libel, and the cause having come on for final hearing on December 2, 1908, the court rendered its decree in substance and in form as follows:

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION.

THE UNITED STATES OF AMERICA }  
vs. } No. 1951.  
NINE HUNDRED CASES OF PEAS. }

ORDER.

The claimants of the peas herein having admitted in open court that the facts and statements contained in the libel herein are true, and having presented bond in the sum of two thousand dollars (\$2,000) as provided in section 10 of the act of Congress, approved June 30, 1906;

It is hereby ordered that upon the payment of the costs of this action and the approval of said bond by the clerk as to its sufficiency, the marshal is directed to release to the substituted claimants, to wit, the Van Camp Packing Company, the cases of peas seized herein.

The facts in the case were as follows:

On or about October 29, 1908, an inspector of the Department of Agriculture located in the possession of A. Janszen & Co., Cincinnati, Ohio, 900 cases, each case containing 24 cans of peas. Seven hundred and fifty of these cases were labeled "Standard Sifted Early June Peas. The Van Camp Packing Co., Indianapolis, Ind.," and the remaining 150 cases, "Van Camp's Early June Peas. The Van Camp Packing Co., Indianapolis, Ind." In addition, there appeared upon the label of each can contained in the cases the statement "Net weight, 22 ounces." These goods had been shipped to A. Janszen & Co. by the Van Camp Packing Company, Indianapolis, Ind., on June 27 and July 24, 1908. A number of the cans were weighed in the Bureau of Chemistry, United States Department of Agriculture, and were found to contain from four-fifths to  $1\frac{1}{2}$  ounces less than the weight declared upon the cans. The goods were, therefore, misbranded within the meaning of section 8 of the Food and Drugs Act, and on October 31, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the southern district of Ohio, who duly filed a libel for seizure and condemnation of said peas, with the results hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

(N. J. 71.)

#### MISBRANDING OF LEMON EXTRACT.

(AS TO PRESENCE OF LEMON OIL.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of December, 1908, in the district court of the United States for the southern district of Ohio, in a prosecution by the United States against the Heekin Spice Company, a corporation conducting business at Cincinnati, Ohio, for violation of section 2 of the aforesaid act, in shipping and delivering for shipment from Ohio to Kentucky a quantity of a product labeled and branded "White Cap Flavors Lemon" which was in fact a terpeneless extract of

lemon, the said Heekin Spice Company having entered a plea of guilty, the following judgment was entered:

DISTRICT COURT OF THE UNITED STATES, WESTERN DIVISION, SOUTHERN DISTRICT OF OHIO. AT CINCINNATI, OCTOBER TERM, 1908.

TUESDAY, December 29th, 1908.

Journal entry; Vol. 10; page 36.

UNITED STATES OF AMERICA  
vs.  
THE HEEKIN SPICE COMPANY. } No. 674.

This day came the United States district attorney on behalf of the United States of America, and said defendant being present in court and having been arraigned at the bar of this court and said information read to it, for plea says it is guilty in manner and form as charged therein and throws itself upon the mercy of the court.

And the United States district attorney moving for sentence, the court pronounced the following sentence, to-wit, that said defendant pay a fine of five (\$5.00) dollars, and the costs of this prosecution to be taxed.

The facts in the case were as follows:

On September 20, 1907, an inspector of the Department of Agriculture purchased from S. O. Dougherty, Covington, Ky., samples of a food product labeled "White Cap Flavors, Lemon, Manufactured by the Heekin Spice Company, Cincinnati, O.," which samples were part of a lot of the same product shipped to the dealer, at Covington, Ky., by the Heekin Spice Company, Cincinnati, Ohio, on or about March 25, 1907. One of these samples was subjected to analysis in the Bureau of Chemistry, Department of Agriculture, and the following results obtained and stated:

Polarization (°V. at 20° C.)-----	0.5
Lemon oil (per cent)-----	.156
Alcohol (per cent)-----	47.28
Methyl alcohol by refraction-----	None.
Citral (per cent)-----	.1875

In the opinion of the Department of Agriculture lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five (5) per cent by volume of oil of lemon, and terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving oil of lemon in dilute alcohol, and contains not less than two-tenths (0.2) per cent by weight of citral derived from oil of lemon.

It was apparent that the article was both adulterated and misbranded; adulterated because a substance had been substituted in whole or in part for oil of lemon, and misbranded in that it was labeled "Lemon Flavor," whereas the analysis showed that it was a terpeneless extract. The Secretary of Agriculture having afforded the manufacturer an opportunity to show any fault or error in the

findings of the analyst, and it having failed to do so, the facts were, on July 7, 1908, reported to the Attorney-General and the case was referred to the United States attorney for the southern district of Ohio, who filed an information against the said Heekin Spice Company, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

(N. J. 72.)

**MISBRANDING OF CANNED CHERRIES.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 100 cases of canned cherries, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending in the district court of the United States for the district of Colorado, wherein the Spratlen-Anderson Mercantile Company, a corporation of Denver, Colo., was claimant. The cherries had been packed by the Woodscross Canning and Pickling Company, Woodscross, Utah, and by them shipped to the said Spratlen-Anderson Mercantile Company, and were misbranded within the meaning of the act in that they were so labeled as to make it appear that each case contained 2 dozen cans weighing  $2\frac{1}{2}$  pounds each, whereas the gross weight of each can was found to vary from 2 pounds  $2\frac{1}{2}$  ounces to 2 pounds  $5\frac{1}{2}$  ounces. The claimant having admitted the allegations of the libel the court adjudged the goods misbranded, and on January 13, 1909, entered its decree in substance and in form as follows:

UNITED STATES OF AMERICA,  
*District of Colorado, ss:*

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA, *Libelant,* }  
vs. } No. 2228.  
ONE HUNDRED CASES OF CANNED CHERRIES. }

ORDER.

In this cause, it appearing to the court that (the said United States of America, by Thomas Ward, jr., United States attorney for the district of Colorado, and

the Spratlen-Anderson Mercantile Company, a corporation, the claimants and owners of the property seized herein, by L. F. Spratlen, its president, consenting thereto) under the process issued in this cause ninety-six (96) cases of canned cherries were seized by the United States marshal at the city and county of Denver, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein; that is to say, for the reason that the said cases were misbranded in this, that the said cases purported to contain two dozen cans of cherries, each can containing two and one-half pounds of cherries, whereas, in truth and in fact, the said cans in said cases did not contain to exceed two pounds of cherries, and the said brands upon the said cases were, therefore, misleading and calculated to deceive purchasers;

And it further appearing, by like consent, that said the Spratlen-Anderson Mercantile Company has agreed that an order may be entered at once condemning and confiscating said property to the United States;

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the marshal of the court, be, and the same is hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by said the Spratlen-Anderson Mercantile Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond, to be filed with the clerk in this cause, conditioned that this property shall not be sold or otherwise disposed of contrary to the provisions of the act (ch. 3915, 59th Congress) commonly known as the "Pure Food and Drugs Act" (act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to said the Spratlen-Anderson Mercantile Company, or its agents.

By the court.

(Signed) ROBT. E. LEWIS, *Judge.*

It is hereby stipulated and agreed that the foregoing order may be entered of record in the above cause.

THOMAS WARD, Jr.,  
*United States Attorney for the District of Colorado.*  
 THE SPRATLEN-ANDERSON MER. CO.,  
 By L. F. SPRATLEN, *Pres.*

The facts in the case were as follows:

On or about the 5th day of December, 1908, an inspector of the Department of Agriculture found in the possession of the Spratlen-Anderson Mercantile Company, at Denver, Colo., 100 cases of canned cherries, which had been received on November 12, 1908, from the Woodscross Canning and Pickling Company, Woodscross, Utah. Fifty cases of this consignment, each containing 24 cans, were labeled "2 doz. 2½ lbs. Black Cherries, Woodscross Canning and Pickling Co., Woodscross, Utah," and the remaining 50 cases, each containing 24 cans, were labeled "2 doz. 2½ lbs. White Cherries, Woodscross Canning and Pickling Company, Woodscross, Utah." A number of the cans contained in said cases were weighed in the Bureau of Chemistry, United States Department of Agriculture, and the gross weight of each was found to vary from 2 pounds 2½ ounces to 2 pounds 5½

ounces. The cases were therefore misbranded within the meaning of section 8 of the act, and on the 7th day of December, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

(N. J. 73.)

**MISBRANDING OF VINEGAR.**

(COLORED IMITATION FRUIT VINEGAR.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of January, 1909, in the district court of the United States for the district of Indiana, in a proceeding of libel for seizure and condemnation of misbranded vinegar, that is to say, forty barrels of distilled vinegar artificially colored in imitation of apple or cider vinegar, labeled and branded "Price and Lucas, Old Homestead Blended Vinegar," wherein the United States was libellant and Price and Lucas Cider and Vinegar Company, a corporation of Louisville, Ky., was claimant, the said claimant having filed its answer and the cause coming on for a hearing, a decree of forfeiture and condemnation was rendered by the court in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE DISTRICT OF INDIANA.

UNITED STATES  
vs.  
FORTY BARRELS OF VINEGAR, MORE OR LESS. }  
}

Now, at this day comes the United States, by Joseph B. Kealing, United States attorney for the District of Indiana, and the Price and Lucas Cider and Vinegar Company, a corporation, by A. R. Hambly, its secretary, claimant and owner of the said forty barrels of vinegar, by Charles W. Moores, their proctor, and this cause now coming on to be heard on the filing therein and after due deliberation being had in the premises, the court finds that all of the allegations contained in the libel are true and that the United States is entitled

to recover herein. It is therefore ordered, adjudged, and decreed that the said forty barrels of vinegar shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906.

It is further ordered, adjudged, and decreed that the marshal be, and is hereby, directed to release the said forty barrels of vinegar and release the same to the claimant herein.

The facts in the case were as follows:

On or about October 5, 1908, an inspector of the Department of Agriculture found in the possession of Bierhaus Brothers, Vincennes, Ind., 40 barrels of a product, each barrel being branded "Price and Lucas Old Homestead Blended Vinegar, Bierhaus Brothers, Vincennes, Indiana, Distributors." The goods had been shipped to Bierhaus Brothers by the Price and Lucas Cider and Vinegar Company, of Louisville, Ky., on December 30, 1907. A sample was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the following results were obtained and stated:

Solids (grams per 100 cc)-----	0.25
Acid, as acetic (grams per 100 cc)-----	3.69
Color removed by Fuller's earth (per cent)-----	80.00

In the opinion of the Department of Agriculture, vinegar, cider vinegar, apple vinegar is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples, \* \* \* and contains not less than four (4) grams of acetic acid in 100 cc, and spirit vinegar, distilled vinegar, grain vinegar is the product made by the acetous fermentation of dilute distilled alcohol, and contains, in one hundred (100) cubic centimeters (20° C.), not less than four (4) grams of acetic acid.

The results of the analysis above given showed that the product was a distilled vinegar artificially colored in imitation of genuine cider or apple vinegar, and therefore the label appearing thereon was false, misleading, and deceptive, and in violation of the act. On October 6, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Indiana and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

89203—09—2

## MISBRANDING OF MAPLE SIRUP.

(AS TO PRESENCE OF CANE-SUGAR SIRUP.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 25th of January, 1908, in the district court of the United States for the district of Oregon, in a prosecution by the United States against the Pacific Coast Syrup Company, a corporation of San Francisco, Cal., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Oregon to Washington an adulterated and misbranded sirup, that is to say, a sirup contained in cans labeled "Toboggan Maple Syrup, Pacific Coast Syrup Co., San Francisco, Cal. Refineries San Francisco, Cal., Seattle, Wash.," which was a mixture of maple sirup and cane-sugar sirup, the defendant having entered a plea of guilty, the court imposed upon it a fine of \$25.

The facts in the case were as follows:

On December 13, 1907, an inspector of the Department of Agriculture purchased from the Pomeroy Mercantile Company, Pomeroy, Wash., samples of sirup labeled "Toboggan Maple Syrup, Pacific Coast Syrup Co., San Francisco, Cal. Refineries San Francisco, Cal., Seattle, Wash." A small, inconspicuous supplemental label on the side of the can stated that the product contained nothing but pure maple sugar and pure granulated white sugar blended. One of the samples of this sirup was subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture, and the following results were obtained and stated:

Total solids (per cent)-----	69.3
Direct polarization (°V. at 20° C.)-----	+59.0
Invert polarization (°V. at 20° C.)-----	-22.2
Invert polarization (°V. at 87° C.)-----	0.0
Sucrose (Clerget) (per cent)-----	61.20
Glucose -----	None.
Reducing sugar before inversion (per cent)-----	8.15
Ash, total (per cent)-----	0.20
Ash—water-soluble (per cent)-----	0.12
Ash—water-insoluble (per cent)-----	0.08
Alkalinity of water-soluble ash (cc N/10 hydrochloric acid per gram)-----	0.14
Alkalinity of water-insoluble ash (cc N/10 hydrochloric acid per gram)-----	0.16
Ratio of insoluble ash to soluble ash-----	1.63
Winton's lead number-----	0.38

In the opinion of the Department of Agriculture, maple sirup is sirup made by the evaporation of maple sap or by the solution of maple concrete, and contains not more than thirty-two (32) per cent of water and not less than forty-five hundredths (0.45) per cent of maple sirup ash.

The analysis disclosed that the product contained considerable quantities of cane-sugar sirup. It was apparent that the sirup was not a maple sirup as stated on the principal label, but was a mixture of maple sirup and cane-sugar sirup, and therefore adulterated and misbranded within the meaning of sections 7 and 8 of the act.

The Secretary of Agriculture having, on September 3, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the district of Oregon, who filed an information against the said Pacific Coast Syrup Company, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

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(N. J. 75.)

#### ADULTERATED AND MISBRANDED PEPPER.

(AS TO PRESENCE OF NUTSHELLS, FRUIT PITS, ETC.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of February, 1909, in the district court of the United States for the eastern district of Washington, in a prosecution by the United States against the Powell-Sanders Company, a corporation doing business at Spokane, Wash., for violation of section 2 of the aforesaid act in the shipment and delivery for shipment from Washington to Idaho of a product labeled "Le Roi Black Pepper, Powell-Sanders Company, Spokane, Washington," which was adulterated and misbranded in that it contained cracker crumbs, ground nutshells, and fruit pits, and was not black pepper, but a mixture of black pepper and said substances, the said defendant having entered a plea of

guilty, the court imposed upon it a fine of \$100, and delivered the following opinion in connection therewith:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT OF WASHINGTON, EASTERN DIVISION.

UNITED STATES OF AMERICA, *Plaintiff*,  
*vs.* } No. 717.  
POWELL-SANDERS COMPANY, A CORPORATION, *Defendant*. }

A. G. AVERY, *U. S. Atty.*

OPINION.

WHITSON, *District Judge*:

This is an information filed against the defendant for violation of the act of June 30, 1906 (34 Stat. L., 768; Supp. Fed. Stat. Ann., 1907, p. 78), generally known as the Pure Food Act. A plea of guilty has been entered, and the only question for consideration is the punishment to be inflicted. Upon the statements made and the data furnished the necessity for the statute is quite apparent. It seems that the person immediately responsible for the adulterated article has been discharged, and it has been stated here that the defendant had no knowledge that the law was being violated. The court accepts this as true, but it is the duty of a manufacturer engaged in supplying food products to know that its managers are not evading the statute, and the presence of adulterants in the establishment furnished the opportunity for adulteration. The culpability arose through inattention to details. Again, it appears to have long been the custom of the trade to engage in this method of swelling profits, and the practice has been carried on for so many years and to such an extent that no doubt dealers have come to regard the matter in the light of legitimate business competition. While these considerations on a plea of guilty palliate, they can not excuse. The law is in the interest of public health and must be enforced. In view of the circumstances a fine of \$100 and costs is considered a sufficient reminder of the necessity for a strict compliance with the terms of the statute, and this will be the judgment of the court.

On the 6th day of February, 1909, the following judgment was entered:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF WASHINGTON, EASTERN DIVISION.

UNITED STATES OF AMERICA, *Plaintiff*,  
*vs.* } No. 717.  
POWELL-SANDERS COMPANY, A CORPORATION, *Defendant*. }

JUDGMENT.

Now, on this 6th day of February, A. D. 1909, upon motion of the United States district attorney for the eastern district of Washington for judgment against the defendant in the above-entitled cause, the defendant having heretofore, to wit, on the 1st day of February, 1909, entered its plea of guilty to the information, the court does thereupon adjudge the defendant guilty of the offence charged, and upon consideration of the premises, the court being fully advised, orders that defendant pay a fine of one hundred dollars (\$100.00) and the costs of the prosecution; it is, therefore,

Considered, ordered, and adjudged that the plaintiff have and recover of and from the defendant the said sum of one hundred dollars (\$100.00) as a fine, and the costs to be taxed, and that execution issue therefor.

Dated this 6th day of February, A. D. 1909.

EDWARD WHITSON, *District Judge.*

The facts in the case were as follows:

On June 29, 1907, an inspector of the Department of Agriculture purchased, in Coeur D'Alene, Idaho, samples of a product labeled "Le Roi Black Pepper; Powell-Sanders Company, Spokane, Washington." These samples formed part of a shipment made by the Powell-Sanders Company, Spokane, Wash., to the Inland Cash Grocery, of Coeur D'Alene, Idaho, on or about June 7, 1907. A sample was subjected to analyses in the Bureau of Chemistry, United States Department of Agriculture, and found to be adulterated with cracker crumbs, ground nutshells, and fruit pits. A trace of red pepper tissue was also found in addition to the black pepper tissue.

In the opinion of the Department of Agriculture, black pepper is the dried immature berry of *Piper nigrum L.*, and contains not less than six (6) per cent of nonvolatile ether extract, not less than twenty-five (25) per cent of starch, not more than seven (7) per cent of total ash, not more than two (2) per cent of ash insoluble in hydrochloric acid, and not more than fifteen (15) per cent of crude fiber. One hundred parts of the nonvolatile ether extract contain not less than three and one-quarter (3.25) parts of nitrogen.

It was apparent that the article was both adulterated and misbranded, within the meaning of sections 7 and 8 of the act; adulterated because cracker crumbs, ground nutshells, and fruit pits had been mixed with the pepper, so as to reduce, lower, and injuriously affect its quality and strength, and because ground cracker crumbs, nutshells, and fruit pits had been substituted wholly or in part for said article, and it was misbranded in that it was labeled "black pepper" when, as a matter of fact, the analysis showed it consisted of black pepper and a mixture of other substances. The Secretary of Agriculture having, on July 8, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the eastern district of Washington, who filed an information against the said Powell-Sanders Company, with the result hereinbefore stated.

F. L. DUNLAP,  
Geo. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

## ADULTERATION OF OATS.

(AS TO PRESENCE OF BARLEY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 18th day of February, 1909, in the district court of the United States for the northern district of Georgia, in a proceeding of libel for seizure and condemnation of 200 bags of adulterated oats; that is to say, oats with which barley had been mixed and packed, wherein the United States was libelant and Alex C. Harsh & Co., Nashville, Tenn., were claimants, the said claimants having entered into a stipulation of facts admitting the allegations of the libel, the court adjudged the oats adulterated and rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, EASTERN DIVISION, NORTHERN DISTRICT OF GEORGIA, NOVEMBER TERM, 1908.

THE UNITED STATES	{	No. ——. Libel in rem.
vs.		
Two Hundred Bags Oats.		
Alex C. Harsh & Company, <i>Claimants.</i>		

## ORDER.

Now, on this day this cause coming on for hearing on an agreed stipulation and consent of the parties by and between John W. Henley, assistant United States attorney for the northern district of Georgia, and Alex. C. Harsh, a member of and representing the firm of Alex C. Harsh & Company, and the cause being submitted by the parties hereto upon the pleadings and admissions of the intervening claimant, Alex C. Harsh & Company, and the said Alex C. Harsh & Company, claimants, as aforesaid, having appeared in court and waived the time and place of hearing, admitted the allegations and charges contained in said libel of information, and having consented in writing that a final decree be made in said case, and having consented that the said two hundred bags of oats named in said libel of information be condemned by decree of this court, as provided for in section 10 of the act of Congress of June 30, 1906, known as the Pure Food Law.

Wherefore it is considered, ordered, adjudged, and decreed by the court that the United States marshal shall label and brand said bags containing said oats as "Barley and White Oats Mixed;" that the said marshal shall advertise and sell said oats as provided by law and shall, out of the proceeds of said sale, pay the costs and pay the remainder, if any, into the Treasury of the United States, as provided in section 10 of said act of Congress: *Provided, however,* That the said Alex C. Harsh & Company, interveners herein, upon the payment of all the costs of this libel, including the costs of seizure, removal, storage, and all expenses incurred therein, and upon the execution of a good and sufficient bond, in the sum of \$500.00, conditioned that the said

Alex C. Harsh & Company shall label said goods in accordance with the judgment of this court, as herein expressed, and further conditioned that they will not sell or dispose of said barley and white oats mixed in violation of the laws of the United States, or the laws of any State, Territory, District, or insular possession of the United States, and shall have the right to the possession of said goods now in the possession of the United States marshal or his deputy, and the said United States marshal and his deputies are hereby directed to deliver the said 200 bags or such part thereof of said oats as were seized by him, and now in his possession, to the said Alex C. Harsh & Company or their duly authorized agents upon the execution and delivery of the aforesaid bond and the payment of the aforesaid costs within twenty days from this date.

This February 18, 1909.

WM. T. NEWMAN, *U. S. Judge.*

The facts in the case were as follows:

On or about February 9, 1909, T. G. Hudson, State commissioner of agriculture of Georgia, acting under authority of the Secretary of Agriculture of the United States in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Southern Railway Company at Athens, Ga., two hundred 5-bushel sacks of a product billed and sold as "#2 White Oats," which had been shipped by Alex C. Harsh & Co., from Nashville, Tenn., to Epps-Wilkins Co., Athens, Ga., on or about January 28, 1909. An examination of the oats by a collaborating chemist of the United States Department of Agriculture disclosed that barley had been added to the extent of 54 per cent of the whole. It was evident that the product was adulterated within the meaning of section 7 of the act, for the reason that barley had been substituted in part for oats, and such substitution had reduced and lowered the quality of the grain. Accordingly, the facts were reported by Commissioner Hudson to the United States attorney for the northern district of Georgia, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

## MISBRANDING OF CANNED TOMATOES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 135 cases of canned tomatoes, a proceeding of libel for seizure and condemnation of said goods under section 10 of the aforesaid act, lately pending in the district court of the United States for the district of Colorado, wherein the Ridenour-Baker-Bragdon Mercantile Company, a corporation of Pueblo, Colo., was claimant. The tomatoes had been packed by the Syracuse Canning Company, Syracuse, Utah, and were misbranded in that the cases were labeled and branded "2½ Lbs. Syracuse Standard Tomatoes, Syracuse Canning Company, Syracuse, Utah," whereas the gross weight of each can contained in the cases was  $2\frac{3}{16}$  pounds. The said claimant having admitted the allegations of the libel and the case having come on for a hearing on March 5, 1909, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA, *Libellant,*  
*vs.*  
ONE HUNDRED AND THIRTY-SEVEN CASES OF CANNED TOMATOES. } No. 2234.

ORDER.

In this cause, it appearing to the court that (the said United States of America, by Thomas Ward, jr., United States attorney for the district of Colorado, and the Ridenour-Baker-Bragdon Mercantile Company, a corporation, the claimants and owners of the property seized herein, by C. J. Haines, its vice-president, consenting thereto), under the process issued in this cause, one hundred and thirty-six cases of canned tomatoes were seized by the United States marshal at the city of Pueblo, in the county of Pueblo, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that the said cases were misbranded, in this, that the said cases purported to contain two dozen cans of tomatoes, each can containing two and one-half pounds of tomatoes; whereas, in truth and in fact, the said cans in said case did not contain to exceed thirty-one and eleven-sixteenths ounces of tomatoes, and the said brands upon the said cases were, therefore, misleading and calculated to deceive purchasers;

And it further appearing, by like consent, that said the Ridenour-Baker-Bragdon Mercantile Company has agreed that an order may be entered at once, condemning and confiscating said property to the United States, for the reason that the same are misbranded as charged in the libel herein;

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the marshal of the court, be, and the same is hereby, declared to be forfeited and confiscated to the United States;

It is further ordered, however, that upon payment by said the Ridenour-Baker-Bragdon Mercantile Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond in the sum of one thousand dollars, to be filed with the clerk in this cause, conditioned that this property shall not be sold or otherwise disposed of contrary to the provisions of the act (ch. 3915, 59th Congress, 34 Stat. L., 768), commonly known as the "Pure Food and Drugs Act" (act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to said the Ridenour-Baker-Bragdon Mercantile Company, or its agents.

By the court.

ROBERT E. LEWIS, *Judge.*

It is hereby stipulated and agreed that the foregoing order may be entered of record in the above-entitled cause.

THOMAS WARD, jr.,  
*United States Attorney for the District of Colorado.*

THE RIDENOUR-BAKER-BRAGDON MER. CO.,  
*By C. J. HAINES, Vice Prest.*

The facts in the case were as follows:

On or about February 3, 1909, an inspector of the Department of Agriculture located in the possession of the Ridenour-Baker-Bragdon Mercantile Company, Pueblo, Colo., 137 cases of canned tomatoes, containing 24 cans each, labeled "2½ lbs. Syracuse Standard Tomatoes. Syracuse Canning Co., Syracuse, Utah." The goods had been packed and shipped on August 29, 1908, to the Ridenour-Baker-Bragdon Mercantile Company by the Syracuse Canning Company, Syracuse, Utah. A number of the cans were weighed by the inspector, who found the average gross weight of each can to be 35 ounces. The goods were, therefore, misbranded within the meaning of section 8 of the act, and on February 5, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

GEO. P. McCABE,  
F. L. DUNLAP,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

## MISBRANDING OF WATER.

(AS TO ORIGIN AND SOURCE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of March, 1909, in the circuit court of the United States for the southern district of New York, in a prosecution by the United States against Charles Meisezahl and John Meisezahl and the Charles Meisezahl Manufacturing Company, a corporation of New York City, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of New York into the State of Pennsylvania a water misbranded in this, that it was labeled and branded "Reichs-Quellen Gesellschaft. An invaluable remedy for rheumatism. Wiesbaden. Europa—Asien—America—Australien. Selters Water. Charles Meisezahl, Sole Agent for the U. S." whereas the product was a manufactured water and of domestic origin, the said Charles Meisezahl and the Charles Meisezahl Manufacturing Company having entered pleas of guilty, the court suspended sentence upon Charles Meisezahl and extended the term for a period of six months so that sentence might be imposed during that time in case the said Meisezahl failed to comply with the requirements of the act, and imposed a fine of \$50 upon the Charles Meisezahl Manufacturing Company.

The facts in the case were as follows:

On or about the 20th day of May, 1908, a representative of the Department of Agriculture received in Philadelphia, Pa., a shipment of 50 bottles of water labeled "Reichs-Quellen Gesellschaft. An invaluable remedy for Rheumatism. Wiesbaden. Europa—Asien—America—Australien. Selters Water. Charles Meisezahl, Sole Agent for the U. S." On the center of the label was a pictorial design in which a spring was very prominently displayed. A portion of the bottles bore the following, but much smaller, supplemental label, "Charles Meisezahl Mfg. Co. Artificial-Selters. Analysis (parts in 100,000) : Sodium Chloride, 42.19; Sodium Sulphate, 11.718; Magnesium Chloride, 4.14; Calcium Chloride, 11.718; Sodium Phosphate, 11.718; Sodium Bicarbonate, 24.26; Alumina, traces; Iron, traces."

The water had been prepared by the Charles Meisezahl Manufacturing Company in New York City and it was shipped from that city to Philadelphia, Pa.

Previous to this time an inspector of the Department of Agriculture had made an investigation of the factory of the Charles Meisezahl Manufacturing Company and learned that the water was manu-

factured on the premises, 420 East Fifty-third street, New York City. After the purchase of the said samples the labels on the bottles in this shipment were examined in the Bureau of Chemistry of the United States Department of Agriculture, and as a result of this examination, taken in connection with report of the inspector, it was apparent that the water was misbranded in that the principal label (both written matter and picture) imported that the water was from a natural source of foreign origin—which was untrue—and that the small supplemental label which was attached did not correct the principal label sufficiently to obviate the false and misleading statements on the principal label.

Accordingly, on the 16th day of November, 1908, in compliance with the provisions of section 4 of the act, the Secretary of Agriculture accorded the manufacturers a hearing, but as no evidence was submitted to show any fault or error in the result of the examination of said water, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the southern district of New York, who filed an information against the said Charles Meisezahl and John Meisezahl and the Charles Meisezahl Manufacturing Company, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

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(N. J. 79.)

#### MISBRANDING OF TOMATO CATSUP.

(AS TO PRESENCE OF SCREENINGS AND WASTE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 650 cases of tomato catsup, a proceeding of libel for seizure and condemnation of said catsup under section 10 of the aforesaid act, lately pending, and finally determined on March 15, 1909, in the district court of the United States for the district of Rhode Island by the entry of a decree of forfeiture, condemnation, and destruction of said catsup. The catsup was labeled "Navy Brand Catsup. Prepared with one-tenth of

1 per cent Benzoate Sodium. Prepared by S. J. Van Lil, Baltimore, Md., U. S. A. Notice: This catsup is superior on account of its Fine Zest and True Tomato Flavor. Made from Choice Ripe Tomatoes, Granulated Sugar, and Selected High Grade Spices, Grain Vinegar," and was misbranded in this: That it had been made from pulp screened from peelings and cores of tomatoes, the waste material from tomato-canning factories, and not from choice, ripe tomatoes as stated on the label. The S. J. Van Lil Company, a corporation of Baltimore, Md., entered its claim to the goods, but not contesting the allegations of the libel, the court, upon consideration of evidence presented by the United States, adjudged the goods adulterated and misbranded and rendered its decree of forfeiture, condemnation, and destruction, in substance and in form as follows:

DISTRICT COURT OF THE UNITED STATES, DISTRICT OF RHODE ISLAND.

UNITED STATES OF AMERICA, *Libellant*,  
vs.  
650 CASES OF TOMATO CATSUP. } Information No. 1127.

DECREE OF FORFEITURE.

At a stated term of the district court of the United States of America for the district of Rhode Island, held in chambers in the Federal building in the city of Providence on Monday, the fifteenth day of March, in the year of our Lord one thousand nine hundred and nine.

Present: The honorable ARTHUR L. BROWN, *District Judge.*

The above entitled cause coming on to be heard on motion of Charles A. Wilson, United States attorney for the district of Rhode Island, for a decree of forfeiture of the merchandise set forth in said information, to wit, 650 cases of tomato catsup, for the reason that the same was, in violation of an act of Congress of the United States, entitled, "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded and poisonous or deleterious foods, drugs and medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, misbranded and subject to forfeiture and destruction;

And upon proof of such misbranding—the claimant being in default—the same is hereby adjudged to be forfeited to the United States.

And it is hereby further ordered that the United States marshal destroy said 650 cases of tomato catsup.

In accordance with the provisions in the decree the catsup was destroyed by the United States marshal on March 18, 1909.

The facts in the case were as follows:

On or about September 28, 1908, an inspector of the Department of Agriculture located in Baltimore, Md., a consignment of 650 cases of catsup aboard the steamer *Howard* of the Merchants and Miners' Transportation Company. The catsup had been delivered for shipment by the S. J. Van Lil Company, of Baltimore, Md., to S. J.

Van Lil, Lowell, Mass., with instructions to notify Coffee Brothers. Later the consignment was located by the inspector in Providence, R. I. The cases were labeled "Navy Brand Catsup. Prepared with one-tenth of 1 per cent Benzoate Sodium. Prepared by S. J. Van Lil, Baltimore, Md., U. S. A. Notice: This catsup is superior on account of its Fine Zest and True Tomato Flavor. Made from Choice Ripe Tomatoes, Granulated Sugar, and Selected High Grade Spices, Grain Vinegar." Previous inspections of the factory of the S. J. Van Lil Company in Baltimore made by the inspectors of the Department of Agriculture disclosed that the materials used in the manufacture of catsup there consisted in part of waste material of canning factories—i. e., tomato pulp screened from peelings and cores of tomatoes. Samples of catsup taken from the consignment seized were subjected to analysis in the Bureau of Chemistry, Department of Agriculture, and found to be of the above description, possessing an offensive odor.

In the opinion of the Department of Agriculture catchup (ketchup, catsup) is the clean, sound product made from the properly prepared pulp of clean, sound, fresh, ripe tomatoes, with spices and with or without sugar and vinegar.

It was apparent that the product was misbranded within the meaning of section 8 of the act. Accordingly, on September 29, 1908, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Rhode Island and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

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(N. J. 80.)

**(MISBRANDING OF SALAD OIL.)**

(AS TO ORIGIN.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 26th day of March, 1909, in the circuit court of the United States for the southern district of New York, in a prosecution by the United

States against Guido Brina, manager of the Standard Trading Company, conducting business at 178 Grand street and 70-74 West Houston street, New York, N. Y., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from the State of New York into the State of New Jersey a misbranded oil—that is to say, an oil contained in cans labeled "Olio per Insalata, Vival Brand, Soprafino, Cotton Salad Oil, Extra Qualita" in such manner as to convey the impression that the product was an imported olive oil, whereas it was in fact a cotton-seed oil of domestic manufacture—the said defendant having entered a plea of not guilty, and the cause having come on for a hearing upon testimony and argument of counsel, and the defendant having been convicted, the court sentenced him to pay a fine of \$100.

The facts in the case were as follows:

On the 2d day of August, 1907, an inspector of the Department of Agriculture purchased from A. Satz Grocery Company, Newark, N. J., samples of oil labeled, "Olio per Insalata Soprafino, Vival Brand, Cotton Salad Oil, Extra Qualita." This label was false, misleading, and deceptive in that it tended to deceive and mislead the more ignorant class of Italians, to whom this brand of oil was principally sold, into believing that the product was a superfine olive oil manufactured in Italy, whereas in fact it was wholly cotton-seed oil manufactured in the United States. The oil had been manufactured by Guido Brina, manager of the Standard Trading Company, New York city, and was shipped by him to the A. Satz Grocery Company on July 17, 1907.

It was apparent, therefore, that the article was misbranded, and the Secretary of Agriculture having, on November 19, 1907, afforded the dealer and manufacturer a hearing and the dealer having established a guaranty from the manufacturer, and the manufacturer having failed to show any fault or error in the aforesaid determination of the misbranded character of the oil, the facts were duly reported to the Attorney-General and by him referred to the United States attorney for the southern district of New York, who filed an information against the said Guido Brina, manager of the Standard Trading Company, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.

(N. J. S1.)

## ADULTERATION OF MILK.

(WATER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on April 6, 1909, in the district court of the United States for the eastern district of Kentucky, in a prosecution by the United States against Henry Groger for violation of section 2 of the aforesaid act in the shipment and delivery for shipment from Kentucky to Ohio of adulterated milk, that is to say, milk containing an excess of water, the defendant having entered a plea of guilty, the court imposed upon him a fine of \$15 and costs.

The facts in the case were as follows:

On September 2, 1908, an inspector of the Department of Agriculture obtained samples from a consignment of milk shipped by Henry Groger from Richwood, Ky., to Cincinnati, Ohio. One of the samples was forthwith analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and the following results obtained and stated:

Specific gravity -----	1.0208
Total solids (per cent)-----	10.24
Fat (per cent)-----	4.2
Nonfatty solids (per cent)-----	6.04

In the opinion of the Department of Agriculture, milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within fifteen days before and ten days after calving, and contains not less than eight and one-half (8.5) per cent of solids not fat, and not less than three and one-quarter (3.25) per cent of milk fat.

It was apparent that the milk was adulterated in violation of section 7 of the act in that it contained an excessive amount of water, thereby reducing its quality and strength. The Secretary of Agriculture, on October 22, 1908, accorded the shipper an opportunity to show any fault or error in the findings of the analyst, and he having failed to do so, the facts were reported to the Attorney-General on January 28, 1909, and the case referred to the United States attorney for the eastern district of Kentucky, who filed an information against said defendant, with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., June 16, 1909.



## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

## NOTICE OF JUDGMENT NO. 82, FOOD AND DRUGS ACT.

## MISBRANDING OF DRUG PREPARATIONS.

(MME. YALE'S SKIN FOOD, ETC.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *vs.* 85 dozen packages, more or less, of certain drug preparations known as "Mme. Yale's Excelsior Fruitcura," "Mme. Yale's Fertilizer Tablets," "Mme. Yale's Excelsior Hair Tonic," "Mme. Yale's Excelsior Complexion Bleach," "Mme. Yale's Antiseptic," "Mme. Yale's Blush of Youth," and "Mme. Yale's Skin Food," a proceeding of libel lately pending in the supreme court of the District of Columbia under the provisions of section 10 of the aforesaid act for seizure and condemnation of said preparations, wherein Maude Yale Bishop Wilson (Mme. M. Yale) of New York, N. Y., was claimant. The said packages of drug preparations were misbranded within the meaning of section 8 of the act, and had been shipped by the said claimant from New York, N. Y., to S. Kann Sons & Company, Washington, D. C. The character and misbranding of said preparations are more particularly described in the libel hereinafter set out.

On July 2, 1908, the United States attorney for the District of Columbia filed a libel in the above-stated court for the seizure and condemnation of the aforesaid drug preparations, which libel is in form and substance as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A  
DISTRICT COURT.

UNITED STATES OF AMERICA, *Libellant*,  
vs.  
LEWIS KANN, SIGMUND KANN, AND SIMON  
Kann, partners trading under the firm  
name and style of S. Kann Sons & Com-  
pany. } No. 772, District docket.

To the Honorable Justice of the Supreme Court of the District of Columbia,  
holding a district court:

The libel of the United States of America, by Daniel W. Baker, its attorney in  
and for the district aforesaid, who in this case prosecuting in its behalf, respect-  
fully represents as follows:

1. That this libel is filed by the United States of America in its own right, and  
prays the seizure for condemnation of certain articles of drugs contained in

eighty-five dozen packages, more or less, as hereinafter particularly set forth in accordance with the act of Congress in such case made and provided, approved June 30, 1906.

2. Your libellant represents to the court that in the city of Washington, District of Columbia, and within the jurisdiction of this honorable court, and within the premises of one Lewis Kann, one Sigmund Kann, and one Simon Kann, partners trading under the firm name and style of S. Kann Sons and Company, to wit, a certain warehouse situated at the corner of Eighth and D streets northwest, are certain articles of drugs being owned by them or in their possession, and being of the particular description following:

Fifteen dozen packages of Madam Yale's Skin Food, eight dozen packages of Madam Yale's Fruitcura, eight dozen packages of Madam Yale's Fertilizer Tablets, thirty-six dozen packages of Madam Yale's Excelsior Hair Tonic, three dozen packages of Madam Yale's Excelsior Complexion Bleach, fourteen packages of Madam Yale's Antiseptic, and one dozen packages of Mme. Yale's Blush of Youth.

3. Your libellant represents that the said fifteen dozen packages of Madam Yale's Skin Food are illegally held as aforesaid within the jurisdiction of this honorable court, and that the said articles are misbranded in violation of the said act of Congress of June 30, 1906, and are liable to condemnation and confiscation as provided therein, for the reason that said packages and labels of said drug bear certain statements regarding said drug and the ingredients and substances contained therein which are false and misleading; and that among the said false and misleading statements are the following, that is to say:

"A marvelous, nourishing product that feeds through the pores of the skin. Madam Yale's Skin Food can not be duplicated as it is compounded by Madam Yale personally and protected by a chemical secret. The Excelsior Skin Food is a pioneer and the only genuine Skin Food in the world. It is absolutely guaranteed to remove wrinkles and every trace of age from the face of all who use it. It is soothing in its effect on the skin, healing as a magic balm, and fattening in its qualities;"

and that the said last-mentioned statement is false and misleading in this, that the said drug is simply an ordinary ointment.

4. Your libellant further represents that the said eight dozen packages, more or less, branded "Madam Yale's Fruitcura," are illegally held as aforesaid within the jurisdiction of this honorable court, and that the said articles are misbranded in violation of the said act of Congress aforesaid, and liable to condemnation and confiscation as provided therein, for the reason that the said packages and labels of said drug bear certain statements regarding said drug and the substances contained therein which are false and misleading, and that among the said false and misleading statements are the following, that is to say:

"Fruitcura is primarily 'Woman's Tonic,' a cure for every ill to which she is sexually heir from Infancy to Old Age. It is Nature's prompt omnipotent Restorative—a Specific for the Generative Organs—Fruitcura cures the so-called 'Incurable.' It is an Elixir of Life—It prevents and cures Prolapsus or Falling of the Womb and all Displacements of Womb or Ovaries;"

and that the said last-mentioned statements are false and misleading in this, that the said drug is not a cure for every ill to which woman is sexually heir, and is not a specific for the generative organs, and does not cure persons afflicted with incurable diseases, and does not cure prolapsus or falling of the womb, or any displacements of the womb or ovaries.

5. Your libellant further represents that the said eight dozen packages, more or less, branded "Mme. Yale's Fertilizer Tablets," are illegally held as aforesaid within the jurisdiction of this honorable court, and that the said articles are

misbranded in violation of the said act of Congress aforesaid, and are liable to condemnation and confiscation as provided therein, for the reason that the said packages and labels of said drug bear certain statements regarding the said drug and the ingredients and substances contained therein which are false and misleading; and that among the said false and misleading statements are the following, that is to say: That the said "Fertilizer Tablets" are "A specific for curing Flatulency and all Gastric troubles," and are "A cure for Obesity." And said last-mentioned statements are false and misleading in this, that the said last-mentioned drug is not a specific for curing flatulency and all gastric troubles, and is not a cure for obesity.

6. Your libellant further represents that the said thirty-six dozen packages, more or less, branded "Mme. Yale's Excelsior Hair Tonic," are illegally held as aforesaid within the jurisdiction of this honorable court, and that the said articles are misbranded in violation of the act of Congress aforesaid, and are liable to condemnation and confiscation as provided therein, for the reason that the said packages and labels of said drug bear certain statements regarding the said drug which are false and misleading, and that among the said false and misleading statements are the following, that is to say:

"It stops hair falling, cures and prevents Dandruff and all Scalp Diseases, and overcomes any hereditary tendency to Baldness or Grayness;" and that said last-mentioned statements are false and misleading in this, that the said last-mentioned drug does not stop the falling of hair and does not cure and prevent dandruff and all scalp diseases, and does not overcome any hereditary tendency to baldness or grayness.

7. Your libellant further represents that the said three dozen packages, more or less, branded "Mme. Yale's Excelsior Complexion Bleach," are illegally held as aforesaid within the jurisdiction of this honorable court, and are misbranded in violation of the said act of Congress aforesaid, and are liable to condemnation and confiscation as provided therein, for the reason that the packages and labels of said drug bear certain statements regarding the said drug and the ingredients and substances contained therein which are false and misleading, and that among the said false and misleading statements are the following, that is to say: That the said last-mentioned drug "removes moth patches, and all skin discoloration," and "creates natural beauty;" and the statement following, that is to say:

"It purifies the entire skin, penetrating its remotest recesses—invigorates nerves, muscles, and ligaments—makes the flesh firm and searches out and expels every impurity. Its compound is a chemical secret known only to Madame Yale;"

and that the said last-mentioned statements are false and misleading in this, that the said last-mentioned drug does not remove moth patches and all skin discoloration, and does not create natural beauty, and does not purify the entire skin, and does not invigorate the nerves, muscles, and ligaments, and does not make the flesh firm, and does not search out or expel any impurity, nor is the compound of said drug a chemical secret known only to Madame Yale, but the said drug consists only of a solution of borax.

8. Your libellant further represents that the statements concerning the ingredients and substances which are contained on the aforesaid label are false and misleading, and the aforesaid drug is therefore misbranded in violation of section 8 of the act approved June 30, 1906.

9. Your libellant further represents that there is also within the premises of the said Lewis Kann, the said Sigmund Kann, and the said Simon Kann, partners trading under the firm name and style of S. Kann Sons and Company, a certain other shipment of certain drugs contained in fourteen dozen packages,

twelve dozen of a small size and two dozen of a large size, each bearing the following label: "Mme. Yale's Antiseptic." In each of said packages is contained a circular bearing the following statements concerning the contents of the said packages:

"Yale's Antiseptic used in the bath is also a sure cure and preventive of Prickly Heat, Nettle-rash, Eczema, and all diseases of the skin and scalp. It is a perfect Disinfectant, Deodorant, Germicide, Prophylactic and Antiseptic, destructive of all disease germs, bacilli and all bacteria of micro-organisms, yet it is 'non-toxic'—Sure preventive of typhoid fever."

Your libellant represents that the said statements contained as aforesaid on the circular accompanying each package aforesaid, are false and misleading, and accredit to the said drug properties and virtues not belonging thereto, and in an analysis of the said drug made in the Bureau of Chemistry of the Department of Agriculture, it is found that the said statements are wholly false and misleading and in violation of the aforesaid Food and Drugs Act of June 30, 1906.

10. Your libellant further represents that there is also contained in the aforesaid premises of the said Lewis Kann, the said Sigmund Kann, and the said Simon Kann, partners as aforesaid trading under the firm name and style of S. Kann Sons and Company, a certain other shipment, being one dozen packages of "Mme. Yale's Blush of Youth." On each of these said packages is a label bearing the following statements:

"Blush of youth is refreshing as concentrated dew, pure as purity—It overcomes all inactivity and imperfection of the skin and underlying structure; spiritualizes the expression, and gives countenance the glow, luster and beauty of Childhood, and preserves the morning of life indefinitely."

Your libellant represents that an analysis of this preparation contained in the aforesaid packages shows that no such properties or virtues are possessed by the aforesaid drug, and that the statements made on the label are false and misleading, and that the said packages are accordingly misbranded in violation of the Food and Drugs Act of June 30, 1906.

11. Your libellant further represents that all of the aforesaid packages branded "Excelsior Skin Food," "Madame Yale's Fruiteura, Woman's Tonic," "Mme. Yale's Fertilizer Tablets," "Mme. Yale's Excelsior Hair Tonic, The Great Hair Grower," "Mme. Yale's Excelsior Complexion Bleach," "Mme. Yale's Antiseptic," and "Mme. Yale's Blush of Youth," contained in the aforesaid shipment, and specifically above set out, are drugs which have been transported from the city and State of New York to the District of Columbia, and so having been transported, remain unsold and in the original unbroken packages, and are now in the District of Columbia, and are about to be sold or offered for sale in the said District of Columbia and in violation of the aforesaid Food and Drugs Act approved June 30, 1906. The same are illegally held within the jurisdiction of this honorable court, and are liable to seizure, condemnation, and confiscation as provided in the said act.

Wherefore, in consideration of the premises, your libellant prays:

1. That the aforesaid shipment containing fifteen dozen packages of "Madame Yale's Skin Food," eight dozen packages of "Madame Yale's Fruiteura, Woman's Tonic," two dozen large-size and six dozen small-size "Mme. Yale's Fertilizer Tablets," twenty-four dozen small-size and twelve large-size packages of "Mme. Yale's Excelsior Hair Tonic, The Great Hair Grower," three dozen packages of "Mme. Yale's Excelsior Complexion Bleach," twelve dozen small-size and two dozen large-size packages of "Mme. Yale's Antiseptic," and one dozen packages of "Mme. Yale's Blush of Youth," so misbranded as aforesaid, be proceeded against and seized for condemnation in accordance with the provisions of the said act of Congress approved June 30, 1906; and that to this end this

honorable court may order to issue a process of attachment in due form of law, according to the course of this honorable court in cases of admiralty and maritime jurisdiction, so far as is applicable in this case, and that the said Lewis Kann, the said Sigmund Kann, and the said Simon Kann, partners as aforesaid trading under the firm name and style of S. Kann Sons and Company, and all other persons having or pretending to have any right, title, interest, or claim in or to the said shipment specifically set out heretofore herein, or any packages contained therein, may be cited to appear herein and answer all and singular the premises aforesaid; and that if the said parties or any others who are interested herein be returned not to be found, that they may be proceeded against by process of publication in manner provided for by law.

2. That by a proper order this honorable court may adjudge and decree that the said shipment containing all of the packages aforesaid, and each and every one of said packages, are misbranded as claimed in this libel, and accordingly decree that the said packages and all of them be condemned at the suit of your libellant, and decree that the same, if not deleterious, shall be disposed of by sale, under such terms and conditions as to this honorable court may seem proper, and that the proceeds thereof, less legal costs, and charges, may be ordered to be paid into the Treasury of the United States, and that if the contents of said packages be deleterious and not subject to sale, that the said contents be then ordered to be destroyed, and that the costs of these proceedings be taxed against the parties found to be the owners of the said packages or the holders of the same within the jurisdiction of this honorable court.

3. And should the said packages be sold and the proceeds thereof be not sufficient to satisfy the costs in this case, that this honorable court may pass a judgment against the parties liable in the premises for the balance of the said costs so unsatisfied; and that this honorable court may pass all and such other orders, decrees and judgments as may be necessary in the premises.

4. And that your libellant may have such other and further relief as the exigencies of the case may require.

DANIEL W. BAKER,  
*United States Attorney, D. C.*  
by STUART McNAMARA,  
*Asst. U. S. Atty.*

The aforesaid claimant having set up her title to the said drug preparations and having failed to answer the aforesaid libel and the case having come on for final hearing on the 9th day of February, 1909, upon motion of the United States attorney therefor, the court rendered its decree in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A  
DISTRICT COURT.

UNITED STATES OF AMERICA, *Libellant*,  
vs.  
LEWIS KANN, SIGMUND KANN, AND SIMON  
Kann, partners trading under the firm  
name and style of S. Kann Sons and  
Company. } No. 772, District docket.

DECREE OF CONDEMNATION.

Upon motion of the United States of America for judgment of condemnation of the articles seized herein, and it appearing to the court that upon the libel

filed herein July 2, 1908, a warrant of arrest was duly issued, under which the marshal of the United States for the District of Columbia has seized fifteen dozen packages of Madam Yale's Skin Food, eight dozen packages of Madam Yale's Fruiteura, eight dozen packages of Madam Yale's Fertilizer Tablets, thirty-six dozen packages of Madam Yale's Hair Tonic, three dozen packages of Madam Yale's Antiseptic, and one dozen packages of Madam Yale's Blush of Youth, which are inventoried as of the value of ninety-eight dollars (\$98.00) as shown by the return of the marshal filed herein, the same being the packages and articles fully described in the said libel and alleged therein to be misbranded by the labels and statements upon said packages and articles set forth in said libel; and it appearing to the court that proper notice and citation has been served upon the respondents, and that the claimant of record has appeared herein through her attorneys, Messrs. Wolf and Cohen, and that no answer has been filed to the libel within the time prescribed, and no objection being signified to the court, it is this ninth day of February, A. D. 1909,

Adjudged, ordered, and decreed, that the aforesaid packages containing the said articles above mentioned, seized by the marshal herein as aforesaid, and now in his custody, be, and they hereby are, declared to be misbranded by the use of the particular labels and statements upon the said articles and packages described in the said libel, in violation of the Food and Drugs Act approved June 30, 1906.

It is further adjudged, that the claimant of record herein pay the costs of this proceeding, and that the said articles contained in the said packages seized by the marshal as aforesaid be disposed of by sale under such terms and conditions as are not in violation of the Food and Drugs Act approved June 30, 1906.

Provided, that upon the said claimant of record paying the costs of the proceedings and executing and delivering to the said libellant a proper and sufficient bond in the penal sum of five hundred (\$500.00) dollars, conditioned that the said packages and the said articles so seized as aforesaid and the contents thereof shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act approved June 30, 1906, the said marshal shall deliver the aforesaid packages to the said claimant in lieu of such disposition by sale as aforesaid.

By the court.

THOS. H. ANDERSON, *Justice.*

The facts in the case were as follows:

On or about June 30, 1908, an inspector of the Department of Agriculture found in the store of S. Kann Sons & Company, in Washington, D. C., a quantity of drug preparations which had been shipped to the said S. Kann Sons & Company, from New York, N. Y., on June 26 by Maude Yale Bishop Wilson. The consignment comprised seven distinct preparations labeled as hereinbefore stated in the libel filed in the case. Samples of the said several preparations were obtained by the Department of Agriculture and subjected to analyses in the Bureau of Chemistry in said Department.

The analysis of the preparation labeled "Mme. Yale's Excelsior Skin Food" disclosed that it consisted of 76.5 per cent of vaselin, which was mixed with fixed oil or fat and zinc oxid, colored with a pink dye, and perfumed.

The analysis of the preparation labeled "Mme. Yale's Excelsior Fruiteura" disclosed that it consisted of 76.97 per cent of volatile mat-

ter (largely water with 16.66 per cent of alcohol by volume), 29.71 per cent of sugar, and small quantities of plant drugs.

The analysis of the preparation labeled "Mme. Yale's Fertilizer Tablets" disclosed that the tablets were very largely composed of charcoal, compounded with potassium bitartrate and sugar.

The analysis of the preparation labeled "Mme. Yale's Excelsior Hair Tonic" disclosed that it consisted of 15.56 per cent of alcohol by weight, 82 per cent of water, and small amounts of glycerin, perfumed with bergamot oil.

The analysis of the preparation labeled "Mme. Yale's Excelsior Complexion Bleach" disclosed that it was mainly a saturated solution of borax in orange flower water.

The analysis of the preparation labeled "Mme. Yale's Antiseptic" disclosed that it consisted of 97.6 per cent of volatile matter (16.96 per cent of alcohol by weight, 4 per cent of formaldehyde, and water), 2.37 per cent of boric acid, and aromatics.

The analysis of the preparation labeled "Mme. Yale's Blush of Youth" disclosed that it consisted of 56.15 per cent of volatile matter (6.30 per cent of alcohol by weight and 49.85 per cent of water colored with a coal tar dye and perfumed), and about 43.85 per cent of glycerin.

By comparison of the analyses with the statements on the labels and circulars inclosed with the several preparations, it was apparent that these statements were false, misleading, and deceptive, and the preparations misbranded within the meaning of section 8 of the Food and Drugs Act of June 30, 1906.

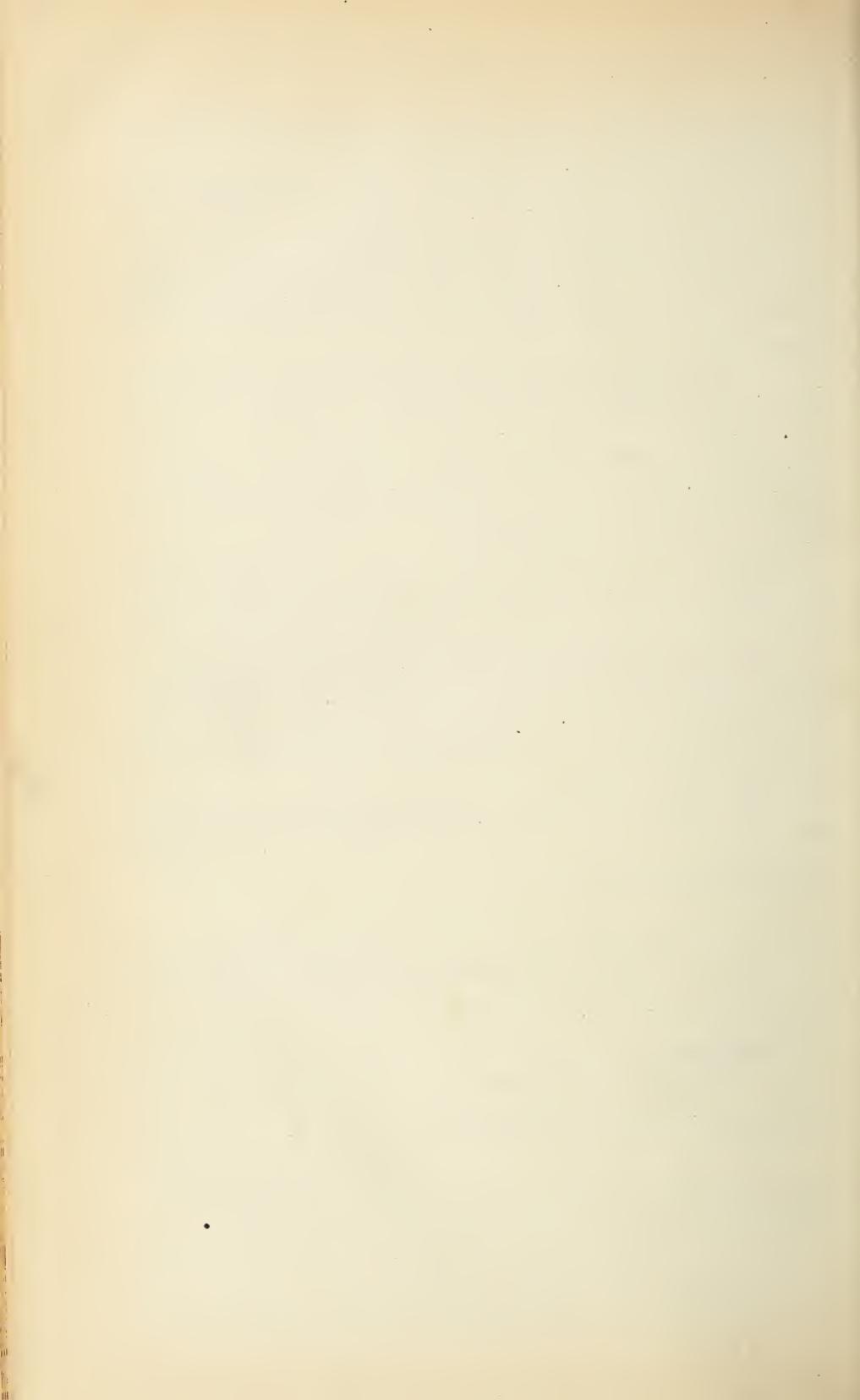
On July 1, 1908, the Secretary of Agriculture reported the aforesaid facts to the United States attorney for the District of Columbia, who forthwith filed a libel for the seizure and condemnation of the goods with the result hereinbefore stated.

F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *June 16, 1909.*



(37)  
LIBRARY  
RECEIVED  
U. S. Department of Agriculture  
July 6, 1909

Notice of Judgment Nos. 83-90.

Issued July 31, 1909.

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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### NOTICE OF JUDGMENT NOS. 83-90, FOOD AND DRUGS ACT.

83. Misbranding of wine (Fermented solution of commercial dextrose, artificially colored and preserved with benzoic acid).
84. Misbranding of baked beans and tomato sauce (Underweight).
85. Misbranding of canned tomatoes (Underweight).
86. Misbranding of a drug product (Saltpetre).
87. Misbranding of evaporated apples (As to quality).
88. Adulteration of milk (Added water).
89. Misbranding of evaporated apples (Underweight).
90. Misbranding of canned peas (Underweight).

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(N. J. 83.)

#### MISBRANDING OF WINE.

(FERMENTED SOLUTION OF COMMERCIAL DEXTROSE ARTIFICIALLY COLORED AND PRESERVED WITH BENZOIC ACID.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the cases of the United States *v.* 1078 barrels of wine and United States *v.* 220 barrels of wine, proceedings of libel for seizure and condemnation of said wine under the provisions of section 10 of the aforesaid act lately pending in the district court of the United States for the eastern district of Louisiana, wherein John G. Dorn, The Sweet Valley Wine Company, and The A. Schmidt, jr., and Bros. Wine Company, all of Sandusky, Ohio, were claimants.

Libels for seizure and condemnation of the aforesaid barrels of wine, on the ground that they were adulterated and misbranded within the meaning of the aforesaid act, were filed by the United States attorney for the eastern district of Louisiana on February 5 and 7, 1908, respectively. The wine was duly seized by the marshal and on March 26, 1908, the said several claimants filed their answer, in substance and form identical, admitting the shipments of the

wine from Sandusky, Ohio, to New Orleans, La., denying that it was adulterated or misbranded, and in paragraph 4 thereof alleging that the act was unconstitutional, or, if not, that it was void for indefiniteness and uncertainty in that the offenses thereby intended to be created were not specifically defined.

On April 20, 1908, on the motion of the United States attorney, concurred in by counsel for claimants, the court ordered the two cases consolidated. On the same day the parties agreed to a statement of the facts and entered into a stipulation for judgment, wherein the several labels on the barrels and the composition of the wine are set out, all in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA, AT NEW ORLEANS.

AGREED STATEMENT OF FACTS AND STIPULATION FOR JUDGMENT.

Filed April 20, 1908.

UNITED STATES  
v.  
ONE THOUSAND SEVENTY-EIGHT BARRELS OF WINE. } No. 14057.

UNITED STATES  
v.  
TWO HUNDRED TWENTY BARRELS OF WINE. } No. 14058.

The above-entitled causes are consolidated by consent and for the purpose of these causes only it is agreed by and between Rufus E. Foster, United States attorney, and Bernard McCloskey and W. M. Hough, attorneys for The A. Schmidt, jr., & Bros. Wine Company, The Sweet Valley Wine Company, and John G. Dorn, claimants of the several portions of the barrels of wine proceeded against in the above-entitled suits, as shown by their respective claims and answers filed in said suits, that the contents of the barrels is a wine made from grape pomace, which has not been pressed dry, to which is added grape sugar, harmless coloring matter, in some instances a small amount of saccharin, and not more than one-tenth of 1 per cent of benzoate of soda, as indicated in the description herein; that the barrels are labeled as follows:

1. Those shipped by The A. Schmidt, jr., & Bros. Wine Company:

a. "Claret Wine—containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

b. "Vino Type Claret Wine—containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

c. "Vino Puro—Naghorea—A. Cusamano, New Orleans, La., containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

d. "Vino Corvo Claret—A. Cusamano & Co., New Orleans, La., containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

2. Those shipped by The Sweet Valley Wine Company:

a. "X Ohio Sweet Catawba Wine—Serial 124. Guaranteed under the National Pure Food and Drugs Act. Containing one-sixteenth of 1 per cent benzoate of soda, sweetened with cane sugar and pure saccharin, made 1906-1907."

b. "X—Port Wine Type—Serial 124. Guaranteed under the National Pure Food and Drugs Act. Containing harmless coloring and one-sixteenth of 1 per cent benzoate of soda. Sweetened with cane sugar and pure saccharin. Made 1906-1907."

c. "A—Ohio Red Wine Vino Type—Serial 124. Guaranteed under the National Pure Food and Drugs Act. Containing one-sixteenth of 1 per cent benzoate of soda. Made 1906—1907."

d. "Ohio Claret Medoc Type Wine—Serial 124. Guaranteed under the National Pure Food and Drugs Act. Containing harmless coloring and one-sixteenth of 1 per cent benzoate of soda."

3. Those shipped by John G. Dorn:

a. "Claret Wine—Serial No. 3255. Guaranteed under the National Pure Food and Drugs Act. Containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

b. "Vino Type—Serial No. 3255. Guaranteed under the National Pure Food and Drugs Act. Containing harmless coloring and one-tenth of 1 per cent benzoate of soda."

c. "Vino Type—Serial No. 3255. Guaranteed under the National Pure Food and Drugs Act. Containing one-tenth of 1 per cent benzoate of soda."

That all of said wine was shipped by the respective claimants from Sandusky, Ohio, to the respective consignees at New Orleans, La., and still remains in the original packages; that the respective claimants are the true and lawful owners of the wine shipped by each respectively, as shown by their respective answers and claims filed herein; that the claimants withdraw their defense set up in the fourth paragraph of their respective claims and answers; that a decree of condemnation may be entered by consent, and that upon the payment of costs and the execution of a bond in the sum of one thousand dollars each by each of the claimants herein, conditioned as provided by sec. 10 of the Food and Drugs Act of June 30, 1906, the property seized herein may be returned to the respective claimants.

(Signed) RUFUS E. FOSTER,  
*U. S. Atty.*  
 (Signed) BERNARD McCLOSKEY,  
 WARWICK M. HOUGH,  
*Attorneys for Claimants.*

Thereafter, and on the same day, the court adjudged the wine misbranded and rendered its decree in form and substance as follows:

UNITED STATES OF AMERICA, DISTRICT COURT OF THE UNITED STATES, EASTERN DISTRICT OF LOUISIANA, NEW ORLEANS DIVISION.

UNITED STATES  
 v.  
 ONE THOUSAND SEVENTY-EIGHT BARRELS OF WINE. } No. 14057

UNITED STATES  
 v.  
 TWO HUNDRED TWENTY BARRELS OF WINE. } No. 14058.

Now comes the United States of America, by Rufus E. Foster, United States attorney for the eastern district of Louisiana, and the claimants, John G. Dorn, The Sweet Valley Wine Co., and The A. Schmidt, jr., & Bros. Wine Co., by their attorneys, McCloskey & Benedict and Warwick M. Hough, claimants and owners of the wine seized by the United States marshal pursuant to the informations filed in causes Nos. 14057 and 14058, consolidated by consent, and upon stipulation filed in open court:

It is ordered, adjudged, and decreed that the wine aforesaid be, and the same is, condemned as misbranded, but upon the payment of the costs of these proceedings by the claimants and the giving of a bond in the sum of one thousand dollars each by

them the said John G. Dorn, The Sweet Valley Wine Co., and The A. Schmidt, jr., & Bros. Wine Co., conditioned that the said wine will not be disposed of by them contrary to the provisions of the Food and Drugs Act, approved June 30, 1906.

It is further ordered that the said wine be delivered to the respective claimants according to their respective claims and answers herein.

Decree entered April 20, 1908.

Decree engrossed April 21, 1908.

(Signed)                    EUGENE D. SAUNDERS, *Judge.*

The facts in the cases were as follows:

On or about February 4, 1908, an inspector of the United States Department of Agriculture found in the freight depot of the Illinois Central Railroad in New Orleans, La., 1,298 barrels of so-called wine, labeled and branded as hereinbefore stated in the agreed statement of facts upon which the cases were heard. The goods had been shipped from Sandusky, Ohio, during the months of December, 1907, and January, 1908. Five hundred and thirty-five barrels had been shipped by John G. Dorn to the following-named person and firms of New Orleans in the amounts stated: T. F. Cunningham, 345; Schmidt & Zeigler (Limited), 130; and Loeb, Lion & Felix (Limited), 60. Six hundred and one barrels had been shipped by A. Schmidt, jr., Bros. Wine Company to the following-named persons and firms of New Orleans, in the amounts stated: A. E. Murphy, 240; A. Mackie Grocery Company (Limited), 60; Joseph Congelosi & Co., 181; and Frank Vatter, 120. One hundred and sixty-two barrels had been shipped by The Sweet Valley Wine Company to the following-named firms of New Orleans, in the amounts stated: Meanard Brothers, 62; P. A. Best Company, 60; Block Brothers, 15; and Beret Brothers, 25.

Samples of each of the several brands included in the aforesaid shipments were analyzed in the Bureau of Chemistry of the said Department and it was found that:

The wines designated as "Claret Wine," and "Vino Type Claret Wine," and "Vino Puro-Nagherea," and "Vino Corno Claret," and "Vino Type" consisted of a fermented solution of commercial dextrose artificially colored with a dye, preserved with benzoic acid.

The wine designated as "X Ohio Sweet Catawba Wine" consisted of a fermented solution of commercial dextrose and sucrose, artificially sweetened with saccharin, preserved with benzoic acid.

The wine designated as "X Port Wine Type" consisted of a fermented solution of commercial dextrose and cane sugar, artificially colored with a coal-tar dye, sweetened with saccharin. There was present only 10.36 per cent of alcohol, a quantity much below that in true port wine.

The wine designated as "A Ohio Red Wine Vino Type" consisted of a fermented solution of commercial dextrose or starch sugar, artificially colored with a coal-tar dye and preserved with benzoic acid.

The wine designated as "A Ohio Claret Medoc Type Wine" consisted of a fermented solution of commercial dextrose, artificially colored with a coal-tar dye, preserved with benzoic acid.

In the opinion of the Department of Agriculture, wine is the product made by the normal alcoholic fermentation of the juice of sound ripe grapes, and the usual cellar treatment, and contains not less than seven (7) nor more than sixteen (16) per cent of alcohol, by volume, and in one hundred (100) cubic centimeters (20° C.), not more than one-tenth (0.1) gram of sodium chlorid nor more than two-tenths (0.2) gram of potassium sulphate, and red wine is wine containing the red coloring matter of the skins of grapes.

The analyses of the foregoing products disclosed that they were not made from the juice of grapes and were artificially colored to imitate true wines, and, in the opinion of the Secretary of Agriculture, were not entitled to be branded "wine," and were therefore adulterated and misbranded within the meaning of sections 7 and 8 of the Food and Drugs Act of June 30, 1906.

Accordingly, on February 5, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of Louisiana, who forthwith filed libels for seizure and condemnation of the aforesaid 1,298 barrels of wine, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

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(N. J. 84.)

**MISBRANDING OF BAKED BEANS AND TOMATO SAUCE.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 13th day of March, 1909, in the district court of the United States for the district of Indiana, in a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of a misbranded

article of food, that is to say, 42 cases of canned baked beans and tomato sauce labeled and branded as containing "4 dozen 1 lb." cans each, whereas, in fact, the average gross weight of each can was 14 ounces, the E. G. Dailey Company, a corporation of Detroit, Mich., consignor and claimant, having appeared and filed its answer admitting the allegations of the libel and the cause having come on for a hearing, the court rendered its decree of forfeiture and condemnation in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

UNITED STATES

v.

FORTY-TWO CASES OF CANNED BAKED BEANS AND  
Tomato Sauce, more or less.

6879.

Now at this day comes the United States by Joseph B. Kealing, United States attorney for the district of Indiana, and E. G. Dailey Company, a corporation, by E. G. Dailey, its president, claimant and owner of the said forty-two cases of canned baked beans and tomato sauce, by Roemler and Chamberlain, their proctors, and this cause now coming on to be heard on the pleadings herein and after due deliberation being had in the premises, the court finds that all of the allegations contained in the libel are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed that the said forty-two cases of canned baked beans and tomato sauce be condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs in this case taxed at \$—— have been paid by the claimant and the claimants having filed a good and sufficient bond herein, to the effect that the said forty-two cases of canned baked beans and tomato sauce shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said forty-two cases of canned baked beans and tomato sauce and restore the same to the claimant herein.

The facts in the case were as follows:

On or about October 29, 1908, an inspector of the State board of health of Indiana, acting under authorization of the Secretary of the United States Department of Agriculture to Dr. H. E. Barnard, State food and drug commissioner of Indiana, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the A. Gafe Company, Terre Haute, Ind., 42 cases (each containing 48 cans) of canned baked beans and tomato sauce, labeled and branded, "4 dozen 1 lb. Baked Beans and Tomato Sauce, E. G. Dailey Company, Detroit, Michigan." The goods had been shipped to the A. Gafe Company by the E. G. Dailey Company from Detroit, Mich. A number of these cans were weighed by the inspector and the average gross weight was found to be 14 ounces. The goods were therefore misbranded within the meaning of section 8 of the act, and on October 29, 1908, the facts were reported to the United

States attorney for the district of Indiana, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

(N. J. 85.)

**MISBRANDING OF CANNED TOMATOES.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on January 2, 1909, in the district court of the United States for the district of Indiana, in a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of misbranded canned tomatoes—that is to say, 34 cases of canned tomatoes labeled and branded as containing “2 dozen 3 lb.” cans each, whereas in fact the gross weight of each can was 8 ounces less than the weight declared in the label—the Sears & Nichols Company, a corporation of Chillicothe, Ohio, consignor and claimant, having appeared and filed its answer, admitting the allegations of the libel, and the cause having come on for a hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF INDIANA.

UNITED STATES

vs.

THIRTY-FOUR CASES OF CANNED TOMATOES, MORE OR LESS. } 6880.

Now, at this day comes the United States, by Joseph B. Kealing, United States attorney for the district of Indiana, and Sears and Nichols Company, a corporation, by C. H. Sears, its secretary, claimant and owner of the said thirty-four cases of canned tomatoes, by Thomas A. Sims, their proctor, and this cause now coming on to be heard on the pleadings herein, and after due deliberation being had in the premises, the court finds that all of the allegations contained in the libel are true and that the United States is entitled to recover herein. It is therefore ordered, adjudged, and decreed that the said thirty-four cases of canned tomatoes are hereby condemned as being misbranded under the provisions of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs in this case, taxed at \$—, have been paid by the claimant, and the claimants having filed a good and sufficient bond

herein to the effect that the said thirty-four cases of canned tomatoes shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said thirty-four cases of canned tomatoes and restore the same to the claimant herein.

The facts in the case were as follows:

On or about October 27, 1908, an inspector of the State board of health of Indiana, acting under authorization of the Secretary of the United States Department of Agriculture to Dr. H. E. Barnard, State food and drug commissioner of Indiana, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Bement-Rea Company, in Terre Haute, Ind., 34 cases, each containing 24 cans of canned tomatoes labeled and branded "2 dozen 3 lb. Superior Tomatoes. Packed by Sears & Nichols Company, Chillicothe, Ohio, Pentwater, Michigan." The goods had been shipped to the Bement-Rea Company by the Sears & Nichols Company from Chillicothe, Ohio. A number of the cans were weighed by the inspector, and the average gross weight was found to be 40 ounces.

The goods were therefore misbranded within the meaning of section 8 of the act, and on October 29, 1908, the facts were reported to the United States attorney for the district of Indiana and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

—  
(N. J. 86.)

#### **MISBRANDING OF A DRUG PRODUCT.**

(SALTPETRE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 2d day of March, 1909, in the district court of the United States for the district of New Jersey, in a prosecution by the United States against L. Sonneborn Sons (Incorporated), a corporation conducting business at Avondale, N. J., for violation of section 2 of the aforesaid act, in

the shipment and delivery for shipment from Avondale, N. J., to Chicago, Ill., of a drug product which was adulterated and misbranded in this, that it was labeled "L. Sonneborn Sons, Belleville, N. J., 437-20 Pure Double Refined Saltpetre, granulated Nitrate-Potash," whereas it contained sodium chlorid and was not of the standard strength, quality, and purity required by the United States Pharmacopœia, the cause having come on for a hearing, and the defendant having entered a plea of non vult, the court found for the United States and sentenced the defendant to pay a fine of \$50.

The facts in the case were as follows:

On October 12, 1907, an inspector of the Department of Agriculture purchased from Thos. Thorkildsen & Co., Chicago, Ill., samples of a drug product labeled "L. Sonneborn Sons, Belleville, N. J., 437-20 Pure Double Refined Saltpetre, granulated Nitrate-Potash," which samples were a part of a shipment made on June 15, 1907, by L. Sonneborn Sons from Avondale, N. J., to Morrison, Plummer & Co., Chicago, Ill.

One of the samples was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture and the following results obtained and stated:

	Per cent.
Moisture.....	0.46
Chlorid (calculated as sodium chlorid).....	7.28
Sulphates.....	Trace.

The pharmacopœial standard for potassium nitrate (pure double-refined saltpetre) is 99 per cent pure, and as the analysis showed the above-mentioned sample to contain 7.28 per cent of sodium chlorid, it was evident that it was adulterated and misbranded within the meaning of sections 7 and 8 of the act. The Secretary of Agriculture having, on June 12, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis and they having failed to do so, the facts were duly reported to the Attorney-General on November 17, 1908, and the case referred to the United States attorney for the district of New Jersey, who filed an information against the said L. Sonneborn Sons (Incorporated), with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

## MISBRANDING OF EVAPORATED APPLES.

(AS TO QUALITY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* The Bruns Brothers Grocery Company, of Cincinnati, Ohio, a prosecution under sections 2 and 9 of the aforesaid act for the shipment by R. B. Henley & Co., of Cincinnati, Ohio, from said city and State to Illinois of misbranded dried apples which had been sold to said Henley & Co. by said The Bruns Brothers Grocery Company under the guaranty provided for by section 9 of said act, lately pending in the district court of the United States for the southern district of Ohio, wherein, on January 16, 1909, the said The Bruns Brothers Grocery Company entered a plea of guilty and was sentenced by the court to pay a fine of one dollar, and the costs of the prosecution amounting to \$14.20.

The dried apples were contained in packages labeled "Empire Brand Choice Funsten Evaporated Apples. One Pound. Made from best selected apples. Are healthful, delicious, and most desirable for family use. Choice Evaporated Apples. Made from best selected apples," and were misbranded within the meaning of section 8 of the Food and Drugs Act in that these statements were largely false, misleading, and deceptive because the dried apples were not prepared from choice or best selected apples, but from ordinary drying stock, containing a large amount of inferior, worm-eaten, and insufficiently trimmed pieces.

The facts in the case were as follows:

On January 30, 1908, an inspector of the Department of Agriculture purchased from George R. Liston, Olney, Ill., samples of an article of food contained in packages labeled "Empire Brand Choice Funsten Evaporated Apples. One Pound. Made from best selected apples. Are healthful, delicious, and most desirable for family use. Choice Evaporated Apples. Made from best selected apples." These samples were part of a lot of dried apples shipped by R. B. Henley & Co. from Cincinnati, Ohio, to said Liston. The goods so shipped had been purchased by said Henley & Co. from The Bruns Brothers Grocery Company in Cincinnati, Ohio, and the invoice covering the said sale by the said The Bruns Brothers Grocery Company contained the following guaranty: "Articles on this invoice guaranteed under the Pure Food and Drugs Act, June 30, 1906." The samples were duly submitted to examination in the Bureau of Chemistry of the United States Department of Agriculture and it was found that they were prepared from ordinary drying stock,

contained a large quantity of worm-eaten pieces, and were not sufficiently trimmed. It was thus apparent that they were misbranded within the meaning of section 8 of the Food and Drugs Act, and in compliance with section 4 of the act, the Secretary of Agriculture accorded hearings to said Liston and the said Henley & Co. At the hearing, Henley & Co. established the aforesaid guaranty from The Bruns Brothers Grocery Company. No evidence was adduced to show any fault or error in the examination by the Department, and, on November 20, 1908, the Secretary of Agriculture reported the facts to the Attorney-General, who referred them to the United States attorney for the southern district of Ohio. Information was duly filed by the said United States attorney, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 29, 1909.

(N. J. 88.)

**\*ADULTERATION OF MILK.**

(ADDED WATER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgments of the court in the following cases:

United States *v.* Howard Griffith,  
United States *v.* Patrick B. Holt,  
United States *v.* Philip Hettenkemer,  
United States *v.* George A. Wise,  
United States *v.* John Allen,  
United States *v.* Frank E. Altemus,  
United States *v.* Albert Schapiro,  
United States *v.* William W. Whitehead,  
United States *v.* William A. Sanger,  
United States *v.* Soul Berman,  
United States *v.* Charles E. Vernon,  
United States *v.* Charles Harbin,  
United States *v.* Frank Mace,  
United States *v.* Julia Poore,

United States *v.* Grover F. Jarboe,  
United States *v.* Blanche D. Siddall,

lately pending in the police court of the District of Columbia, for violation of section 2 of the aforesaid act in the offer for sale and the sale in the District of Columbia of milk which was adulterated within the meaning of section 7 of the act.

On November 24, 1908, the aforesaid defendant, Howard Griffith, having been arraigned on an information charging him with the sale and offer for sale of milk adulterated with water, entered a plea of guilty, and the court sentenced him to pay a fine of \$25, and in default of payment to be committed to jail for sixty days.

On November 28, 1908, the aforesaid defendant, Patrick B. Holt, having been arraigned on an information charging him with the sale and offer for sale of milk adulterated with water, and having entered a plea of not guilty, and the trial of the issue having resulted in a judgment of guilty, the court sentenced him to pay a fine of \$10, and in default of payment to be committed to jail for thirty days.

On November 28, 1908, the aforesaid defendant, Philip Hettenkemer, theretofore having been let to bail on his deposit of \$10 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 1, 1908, the aforesaid defendant, George A. Wise, having been arraigned on an information charging him with the sale and offer for sale of milk adulterated with water, entered a plea of guilty, and the court sentenced him to pay a fine of \$20, and in default of payment to be committed to jail for sixty days.

On December 2, 1908, the aforesaid defendant, John Allen, having been arraigned on an information charging him with the sale and offer for sale of milk adulterated with water, entered a plea of guilty, and the court sentenced him to pay a fine of \$10, and in default to be committed to jail for thirty days. Sentence was suspended on account of ill health of defendant.

On December 3, 1908, the aforesaid defendant, Frank E. Altemus, theretofore having been let to bail on his deposit of \$20 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 8, 1908, the aforesaid defendant, Albert Schapiro, having been arraigned on an information charging him with the sale and offer for sale of milk adulterated with water, and having entered

a plea of not guilty, and the trial of the issue having resulted in a judgment of guilty, the court sentenced him to pay a fine of \$20.

On December 29, 1908, the aforesaid defendant, William W. Whitehead, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 29, 1908, the aforesaid defendant, William A. Sanger, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 29, 1908, the aforesaid defendant, Soul Berman, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 29, 1908, the aforesaid defendant, Charles E. Vernon, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 29, 1908, the aforesaid defendant, Charles Harbin, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 29, 1908, the aforesaid defendant, Frank Mace, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On December 30, 1908, the aforesaid defendant, Julia Poore, having been arraigned on an information charging her with the sale and offer

for sale of milk adulterated with water, entered a plea of guilty, and the court sentenced her to pay a fine of \$25.

On January 2, 1909, the aforesaid defendant, Grover F. Jarboe, theretofore having been let to bail on his deposit of \$5 collateral security for his appearance to answer an information charging him with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged him in default and ordered the aforesaid collateral security forfeited.

On January 6, 1909, the aforesaid defendant, Blanche D. Siddall, theretofore having been let to bail on her deposit of \$5 collateral security for her appearance to answer an information charging her with the sale and offer for sale of milk adulterated with water, and the case having come on for hearing on the appointed day, and the said defendant having failed to appear, the court adjudged her in default and ordered the aforesaid collateral security forfeited.

The facts in the cases were as follows:

During the months of August, September, October, and November, 1908, Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture of the United States, in pursuance of regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, caused to be purchased samples of milk from the following-named persons and firms, all conducting business in Washington, D. C.:

C. L. Bailey, 237 G street NW.; P. B. Holt & Bro., 17 Fourth street NE.; Philip Hettenkemer, 301 Fourth street NE.; Geo. A. Wise, 3310 P street NW.; John Allen, 1744 Eighth street NW.; Frank E. Altemus, Fourteenth and W streets NW.; Albert Schapiro, 529 Virginia avenue SE.; Whitehead & Reed, Twelfth and D streets NW.; William A. Sanger, 458 Louisiana avenue NW.; Soul Berman, 521 Twenty-third street NW.; Charles E. Vernon & Co., 707 H street NE.; Charles Harbin, Ninth and F streets NE.; Frank Mace, 700 F street NE.; Julia Poore; Richardson & Jarboe, 407 Thirteen-and-a-half street NW.; and Blanche Siddall, 611 D street NW. The said several samples were promptly submitted to analyses, and it was found that they were adulterated within the meaning of section 7 of the Food and Drugs Act of June 30, 1906, in that water had been mixed with the milk so as to reduce and lower its quality and strength. Opportunity to be heard was duly accorded the said several persons and firms, under the provisions of section 4 of the said Food and Drugs Act. At the hearing accorded C. L. Bailey, he produced the guaranty of Griffith & Griffith, dealers from whom he purchased the milk, and proceedings were therefore discontinued as to him, but continued against said Griffith & Griffith. No evidence having been produced by the said several persons and firms

to show any fault or error in the results of the aforesaid analyses of the milk, the facts were duly reported to the United States attorney for the District of Columbia, who forthwith filed informations against the said persons and a partner of the said firms, with the results hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

(N. J. 89.)

**MISBRANDING OF EVAPORATED APPLES.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 57 cases of evaporated apples, a proceeding of libel for seizure and condemnation of the said goods, under section 10 of the aforesaid act, lately pending in the district court of the United States for the eastern district of Texas. The apples had been shipped by the Silbernagel Company (Limited), a corporation, of Shreveport, La., from that point to L. Kahn at Marshall, Tex., and were misbranded in this, that the cases were labeled and branded "Choice Evaporated Apples, 48 1-lb. Cartons, Michael Doyle & Co., Rochester, New York, Favorite Brand," whereas, in fact, the net weight of the contents of each carton was less than 1 pound. L. Kahn, the claimant of the goods, having filed his answer admitting the allegations of the libel, and the case having been submitted to the court upon an agreed statement of facts, and coming on for final hearing on February 15, 1909, the court rendered its decree of forfeiture and condemnation in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE EASTERN DISTRICT OF TEXAS.

UNITED STATES OF AMERICA

vs.

FIFTY-SEVEN CASES EVAPORATED APPLES.

}

On this day this case coming on for hearing, and the United States appearing by J. B. Dailey, assistant United States attorney for the eastern district of Texas, and the claimant, L. Kahn, appearing by his attorney, W. T. Armistead, and the said

cause having been submitted upon an agreed statement of facts, and all matters and things being submitted to the court, and the court being advised in the premises, doth find that the fifty-seven cases of evaporated apples marked "Choice Evaporated Apples, 48 1-lb. Cartons, Michael Doyle & Co., Rochester, New York, Favorite Brand," sold by Silbernagel & Company, a corporation of Shreveport, Louisiana, and by them transported in interstate commerce from Shreveport, La., to Marshall, Texas, and there sold to L. Kahn, where they were seized in the original unbroken packages by the United States marshal for the eastern district of Texas in the possession of the said Kahn.

Second, that the said cases containing evaporated apples were misbranded, in this: That the said cases were labeled "48 1-lb Cartons, Michael Doyle & Co., Rochester, New York, Favorite Brand," whereas, in truth and in fact, each of said cartons contained less than one pound of evaporated apples, net weight, and did not contain one pound of evaporated apples as stated on said package and on said cartons.

Third, that said brands and labels so placed on the cases and cartons were calculated to, and do, mislead the purchasers and customers of said apples as to the amount of evaporated apples contained in said cases and cartons.

Fourth, that said evaporated apples were subject to seizure as being misbranded, under the provisions of the act of Congress approved June 30, 1906, entitled "An act for the prevention of the manufacture and sale or transportation of adulterated or misbranded or poisonous or deleterious foods, etc.,," and more particularly under the provisions of section ten of said act. And that the said United States marshal did on Jan. 23, 1909, seize said evaporated apples under the provisions of said act, and the same are now in his possession.

Wherefore it is ordered, adjudged, and decreed by the court that the said fifty-seven cases of evaporated apples are decreed to be misbranded, in violation of the act approved June 30, 1906, as charged in said libel, and it is further ordered that said fifty-seven cases of evaporated apples, with the contents as aforesaid, be, and they are hereby, condemned and forfeited, as provided for in said act of June 30, 1906. It is provided, however, that upon the payment of all costs of this proceeding, and the execution and delivery by the said L. Kahn to the libelant of a good and sufficient bond in the penal sum of one thousand dollars, conditioned that the said fifty-seven cases of evaporated apples, with the contents as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of said act of June 30, 1906, or to the laws of any State, Territory, District, or insular possession,

That said United States marshal shall redeliver the said fifty-seven cases of evaporated apples to the said L. Kahn in lieu of the retention and destruction thereof, the said bond to be filed herein, if at all, on or before the first day of March, 1909, and that the libelant recover from the said L. Kahn its costs, herein taxed at \$28.30, for which execution shall issue if the costs are not paid as hereinbefore provided.

The facts in the case were as follows:

On or about January 19, 1909, an inspector of the Department of Agriculture located in the possession of L. Kahn, Marshall, Tex., 65 cases of evaporated apples, labeled, "Choice Evaporated Apples, 48 1-lb. Cartons, Michael Doyle & Co., Rochester, New York, Favorite Brand." The goods had been shipped to L. Kahn by the Silbernagel Company (Limited), Shreveport, La., on December 10, 1908. A representative number of cartons was weighed by the inspector and the average net weight of each package was found to be  $13\frac{5}{6}$  ounces, and in no instance was the gross weight of the packages found to equal one pound. As the statement was made in the label

on each case that the individual packages contained therein weighed 1 pound each, the goods were misbranded in violation of section 8 of the act, and on January 20, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the eastern district of Texas, who filed a libel for seizure and condemnation of the goods, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

(N. J. 90.)

**MISBRANDING OF CANNED PEAS.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 300 cases of canned peas, a proceeding of libel under section 10 of the aforesaid act, lately pending in the district court of the United States for the southern district of Illinois, for the seizure and condemnation of said goods. The peas were misbranded in this, each case was branded as containing "2 doz. 2 lb." cans of peas, whereas, in fact, the average gross weight of each can was 1 pound 9 ounces. The goods had been packed by the Reynolds Preserving Company, Sturgeon Bay, Wis., and shipped by said company on August 31, 1908, to J. F. Humphreys & Co., Bloomington, Ill. J. F. Humphreys & Co. having appeared and filed its answer, admitting all the material allegations of the libel, and the cause having come on for a hearing on March 6, 1909, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA, *Libelant,*  
vs.

THREE HUNDRED CASES, MORE OR LESS, OF CANNED PEAS.

} No. 11098.

**ORDER OF COURT.**

Now, on this 6th day of March, 1909, at the term of said court at Springfield, Illinois, in said district, this matter coming on to be heard, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was duly issued

and served on the first day of February, A. D. 1909, and that by virtue of said warrant the marshal has seized and now holds, to wit, three hundred forty-two cases of canned peas of the approximate value of one thousand (\$1,000) dollars, containing two dozen cans to the case, the said three hundred forty-two cases of peas with the contents having been seized within the premises and in the possession of J. F. Humphreys and Co., a corporation within said district, and it appearing to the court that due and legal notice and proclamation have been given to all persons having or claiming to have any claim, right, or interest therein by the first Monday of March, 1909, and no person having appeared or claiming any title or interest in said property other than the said J. F. Humphreys and Co., in whose possession said goods were found, and the said J. F. Humphreys and Co., appearing by Alonzo Hoff, its attorney, and admitting each and all material allegations set forth in said libel, and the court now being fully advised in the premises, finds for the libelant, and finds that the contents of said three hundred forty-two cases contained canned peas of two dozen cans each, an article of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, and that the same have been transported in interstate commerce from the State of Wisconsin to the city of Bloomington, in the State of Illinois, and that the same remain unsold in the original and unbroken package, and the court further finds that said articles of food are misbranded and in violation of said act of Congress, in that said cases and each of them contain less in weight than the amount as shown by the brands thereon.

The court further finds that the said article of food contained in the said three hundred forty-two cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case, and that the same were consigned only to the wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said three hundred forty-two cases of peas with the contents as aforesaid be, and hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel.

And it is further ordered that the said three hundred forty-two cases of peas and the contents thereof be, and hereby are, condemned and forfeited as provided by the said act of June 30, 1906.

It is provided, however, that upon the payment of all the costs of the proceeding herein, including all court, clerk's, and marshal's costs, and all other costs incident to or contracted in this proceeding, and the execution and delivery of the said J. F. Humphreys and Co. to the libelant of a good and sufficient bond in a penalty of one thousand (\$1,000) dollars, conditioned that the said three hundred forty-two cases of peas with the contents aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, that said marshal shall redeliver the said three hundred forty-two cases of peas with their contents to the said J. F. Humphreys and Co., in lieu of the retention and destruction thereof, and that the libelant have and receive from the J. F. Humphreys and Co., its costs herein, for which execution shall issue if the costs are not paid as hereinbefore provided.

The facts in the case were as follows:

On or about January 29, 1909, an inspector of the Department of Agriculture located in the possession of J. F. Humphreys & Co., Bloomington, Ill., 150 cases (each containing 24 cans) of peas labeled "2 doz. 2 lb. Sweet Wisconsin Brand Marrowfat Peas, The Reynolds Preserving Company, Sturgeon Bay, Wisconsin," and 150 cases (each containing 24 cans) of peas labeled "2 doz. 2 lb. Sweet Wisconsin Brand Telephone Peas, The Reynolds Preserving Company,"

Sturgeon Bay, Wisconsin." A representative number of the cans was weighed by the inspector, and the average gross weight of each can was found to be 25 ounces.

The facts were reported by the Secretary of Agriculture to the United States attorney for the southern district of Illinois, and a libel for seizure and condemnation was duly filed, with the result hereinbefore stated:

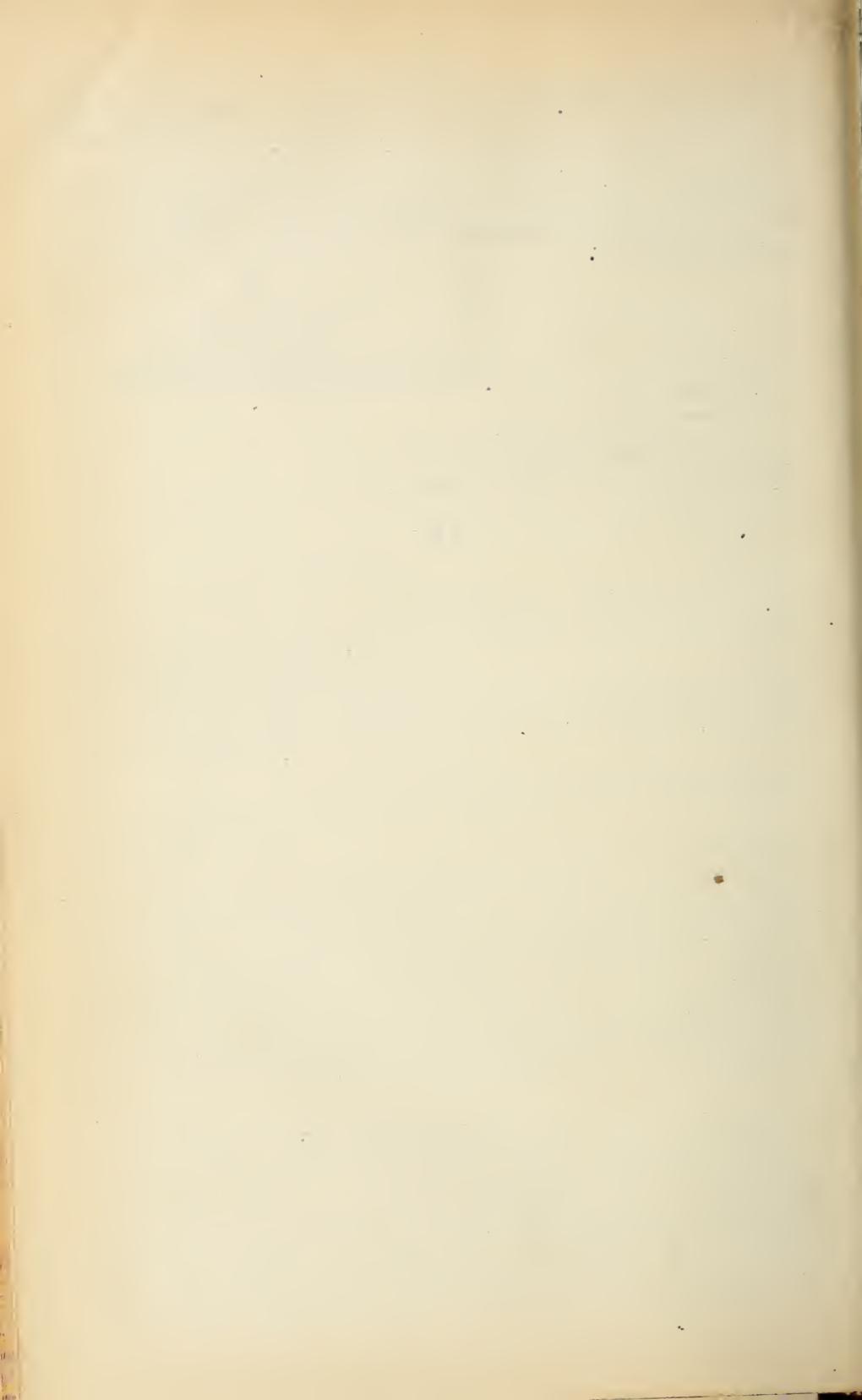
H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., June 28, 1909.

O



## United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

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**NOTICE OF JUDGMENT NO. 91, FOOD AND DRUGS ACT.**

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**MISBRANDING OF LEMON, RASPBERRY, AND STRAWBERRY EXTRACTS.**

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 21st day of January, 1909, in the district court of the United States for the district of Oregon, in a prosecution by the United States against the Dwight-Edwards Company, a corporation of Portland, Oregon, for violations of section 2 of the aforesaid act in the shipment and delivery for shipment from Oregon to Idaho and Montana of three certain articles of food labeled, "Pine Bur Flavoring Extract, Lemon," "Edwards' Dependable Pure Extract Raspberry," and "Edwards' Dependable Pure Extract Strawberry," which were misbranded within the meaning of section 8 of the aforesaid act as hereinafter stated, the said Dwight-Edwards Company having entered a plea of guilty, the court imposed upon it a fine of \$25 for each of the three offenses.

The facts in the cases were as follows:

On October 31, 1907, an inspector of the United States Department of Agriculture purchased from W. A. Sprague, Nampa, Idaho, a sample of an article of food labeled, "Pine Bur Flavoring Extract, Lemon, Dwight-Edwards Co., Portland, Oregon." This sample was part of a shipment made by the Dwight-Edwards Company from Portland, Oregon, to W. A. Sprague, Nampa, Idaho, on September 20, 1907. The sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and it was found that it contained only 1.62 per cent of oil of lemon, 3.38 per cent less than the normal and recognized lemon extract.

It was apparent that it was not lemon extract, and the statement in the label was therefore false, misleading, and deceptive.

On September 25, 1907, an inspector of the Department of Agriculture purchased from Worden's Grocery, Missoula, Montana, two samples of food products, one of which was labeled, "2 Ounces. Full Weight. Edwards' Dependable Pure Extract Strawberry. Dwight-Edwards Company, Portland, Oregon," and the other, "2 Ounces. Full Weight. Edwards' Dependable Pure Extract Raspberry. Dwight-Edwards Com-

pany, Portland, Oregon." These two samples were a part of a shipment made by the Dwight-Edwards Company from Portland, Oregon, to Wor-den's Grocery, Missoula, Montana, on June 18, 1907. Each of the sam-ples was analyzed in the Bureau of Chemistry, United States Department of Agriculture, and was found to be an imitation flavor, artificially col-ored. The statements in the labels were therefore false, misleading, and deceptive.

The Secretary of Agriculture having afforded the Dwight-Edwards Company opportunity to show any fault or error in the aforesaid analyses, and it having failed to do so, the facts were duly reported to the Attorney-General and by him referred to the United States attorney for the district of Oregon who filed an information against the said Dwight-Edwards Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *August 17, 1909.*

O

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.**NOTICE OF JUDGMENT NOS. 92-93, FOOD AND DRUGS ACT.**

92. Misbranding of canned peaches, plums, pears, and apricots (Underweight).  
93. Misbranding of canned beans (Underweight).

(N. J. 92.)

**MISBRANDING OF CANNED PEACHES, PLUMS, PEARS, AND APRICOTS.**

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 150 cases of canned fruit, a proceeding of libel under section 10 of the aforesaid act, in the district court of the United States for the northern district of Iowa, for seizure and condemnation of the said fruit for the reason that it was misbranded in this, that each case, in addition to the word "Plums" or "Peaches" or "Apricots" or "Pears," was labeled and branded "Paragon Brand. Packed at San Francisco, California, by the California Canneries Company, San Francisco, California, 2½ lbs.," whereas, the average gross weight of each can was only 34 ounces. The Witwer Brothers Company, a corporation of Cedar Rapids, Iowa, consignee and claimant, having filed its answer admitting the allegations of the libel, and the case having come on for final hearing on March 3, 1909, the court rendered its decree in substance and in form as follows:

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF IOWA, CEDAR RAPIDS DIVISION.

UNITED STATES OF AMERICA, *Libelant*,  
vs. }  
ONE HUNDRED AND FIFTY CASES OF CANNED FRUIT. }

## ORDER.

Upon application of Witwer Brothers, of Cedar Rapids, Iowa, for release of the goods seized by the marshal, in the above entitled proceedings,

It is ordered, that upon the execution by the claimants to the United States of America of a bond in the penal sum of five hundred dollars (\$500.00) with

sureties to be approved by the clerk of this court, and J. O. Stewart, United States commissioner at Cedar Rapids, Iowa, conditioned as provided by section ten (10) of the Food and Drugs Act of June 30, 1906 (34 Stat., p. 768), and in all other respects complying with the provisions of said act for the release of property seized under its provisions, said property may be released by the marshal and delivered to the said claimants.

Done at chambers, this 3d day of March, 1909.

By the Court.

HENRY T. REED, *Judge.*

The facts in the case were as follows:

On or about January 27, 1909, an inspector of the Department of Agriculture found in the possession of the Witwer Brothers Company, Cedar Rapids, Iowa, 150 cases of canned fruit, each case containing 24 cans, labeled as above stated. The goods had been shipped by the California Canneries Company of San Francisco, Cal., to the Witwer Brothers Company, on or about September 1, 1908. A representative number of the cans was weighed by the inspector and the average gross weight of each can was found to be only 34 ounces. The statement on the label of the case that the weight of each can was  $2\frac{1}{2}$  pounds was therefore false, misleading, and deceptive, and the goods were misbranded within the meaning of section 8 of the act. On January 27, 1909, the above facts were reported by the Secretary of Agriculture to the United States attorney for the northern district of Iowa and libel for seizure and condemnation was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

*Board of Food and Drug Inspection.*

Approved:

W. M. HAYS,

*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *September 15, 1909.*

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(N. J. 93.)

### MISBRANDING OF BEANS.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 63 cases of beans, a proceeding of libel under section 10 of the aforesaid act, in the district court of the United States for the eastern district of Oklahoma, for seizure and condemnation of the said beans for the reason that the cases containing the same were misbranded in this, that they were labeled and branded "2

doz. 2 lb. Sun Bird Brand Cut String Beans, Reedsburg Canning Co., Reedsburg, Wis.," whereas the gross weight of each can was 22 ounces. The Muskogee Wholesale Grocer Company, owner and consignee of the aforesaid goods, having failed to answer the allegations of the libel and the case having come on for final hearing on April 8, 1909, the court adjudged the goods misbranded and rendered a decree of forfeiture and condemnation, in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA.

UNITED STATES OF AMERICA, *Informant*,  
vs.  
SIXTY-THREE CASES OF BEANS. } No. 99.

DECREE OF CONDEMNATION.

Now, to wit, on the 8th day of April, 1909, at the term of said court at Tulsa in said district, said case came on for trial, and it appeared to the court that upon the libel filed herein, monition and warrant of arrest was duly issued on the 17th day of February, 1909, and served on the 17th day of February, 1909, and that by virtue of said warrant, the marshal seized forty-seven cases of beans of the approximate value of \$250, containing two dozen cans to the case, the said cases of beans with contents having been seized within the premises and in the possession of Muskogee Wholesale Grocer Company, a corporation, at Muskogee, within said district, and it appearing that the said Muskogee Wholesale Grocer Company, a corporation, the owners of said cases of beans were duly served to appear on the 5th day of April, 1909, and that due and legal notice and proclamation were duly given to all persons having or claiming to have any right or interest to said property to appear on the same day and answer to said libel, and the libelant appearing by John B. Meserve, assistant United States attorney for the eastern district of Oklahoma, and neither the Muskogee Wholesale Grocer Company, a corporation, nor any person having any claim, right, or interest therein or to said property appearing, and the court now being fully advised in the premises finds for the libelant, and finds that the contents of said cases contain beans of two dozen cans each, articles of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, liquors, and for regulating traffic therein, and for other purposes," and that the same has been transported as beans in interstate commerce from the city of Reedsburg, in the State of Wisconsin, to the city of Muskogee, in the State of Oklahoma, consigned to the Muskogee Wholesale Grocer Company, a corporation of Muskogee, Oklahoma; and that said articles of food were so transported in interstate commerce and consigned and delivered to the Muskogee Wholesale Grocer Company aforesaid, wholesale dealers.

The court further finds that on, to wit, the 20th day of March, 1909, the said Muskogee Wholesale Grocer Company, a corporation, executed and delivered to the libelant a good and sufficient bond in the penalty of five hundred dollars (\$500) conditioned that the said cases of beans with the contents as aforesaid should not be sold or otherwise disposed of contrary to the provisions of said act of June 30, 1906, or to the laws of any State, Territory, District, or insular possession, and that the said Muskogee Wholesale Grocer Company did on said 20th day of March, 1909, pay all costs of such libel proceedings taxed at \$—.

The court further finds that the articles of food contained in said cases are not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case, and that the same were consigned only to the wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered and decreed by the court that the said cases of beans, with the contents as aforesaid, be, and they are hereby, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel; and it is further ordered that the said cases of beans, with the contents as aforesaid, be, and they are hereby, condemned and forfeited as provided for in the said act of June 30, 1906. It is provided, however, that inasmuch as the said Muskogee Wholesale Grocer Company, a corporation, has executed to the libelant a good and sufficient bond in the penalty of five hundred dollars (\$500) conditioned that the said cases of beans, with the contents as aforesaid, should not be sold or otherwise disposed of contrary to the provisions of said act of June 30, 1906, or to the laws of any State, Territory, District, or insular possession, and it appearing to the court that said Muskogee Wholesale Grocer Company has paid the costs in this case taxed at \$—,

It is therefore ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said forty-seven cases of beans with the contents thereof and restore the same to the claimant, the Muskogee Wholesale Grocer Company.

The facts in the case were as follows:

On or about February 15, 1909, an inspector of the Department of Agriculture located in the possession of the Muskogee Wholesale Grocer Company, Muskogee, Okla., 63 cases of beans labeled "2 doz. 2 lb. Sun Bird Brand Cut String Beans, Reedsburg Canning Co., Reedsburg, Wis." The goods had been shipped to the said consignee at Muskogee, Okla., by the McManus Heryer Brokerage Company, Kansas City, Mo., on or about December 5, 1907. A number of the cans were weighed by the inspector and the average gross weight per can was found to be 22 ounces. The statement on the labels of the cases that the weight of each can was 2 pounds was therefore false, misleading, and deceptive, and the goods were misbranded in violation of section 8 of the act. Accordingly, on February 16, 1909, the Secretary of Agriculture reported the facts to the United States attorney for the eastern district of Oklahoma, who forthwith filed a libel for seizure and condemnation of said goods with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

*Board of Food and Drug Inspection.*

Approved:

W. M. HAYS,

*Acting Secretary of Agriculture.*

WASHINGTON, D. C., September 15, 1909.

United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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**NOTICE OF JUDGMENT NOS. 94-99, FOOD AND DRUGS ACT.**

94. Misbranding of water (Artificially lithiated water labeled as a natural product).
95. Misbranding of canned corn (Underweight).
96. Misbranding of a cereal (As to quality and digestive properties).
97. Misbranding of canned tomatoes (Underweight).
98. Adulteration and misbranding of syrup (As to presence of maple sugar).
99. Misbranding of syrup (As to place of manufacture and amount of maple sugar present).

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(N. J. 94.)

**MISBRANDING OF WATER.**

(ARTIFICIALLY LITHIATED WATER LABELED AS A NATURAL PRODUCT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 21st day of December, 1908, in the police court of the District of Columbia, in a prosecution by the United States against Charles Jacobsen, trading under the name of the Arlington Bottling Company, for violation of sections 1 and 2 of the aforesaid act in the manufacture and sale in the District of Columbia of a misbranded water, that is to say, an artificially prepared water labeled and branded "Rock Spring Lithia," the said Charles Jacobsen having entered a plea of guilty to both offenses the court imposed upon him a fine of \$75 for the first offense and \$25 for the second.

The facts of the case were as follows:

On May 23, 1908, an inspector of the Department of Agriculture purchased from the Arlington Bottling Company, Washington, D. C., samples of water labeled "Rock Spring Lithia, Chas. Jacobsen, Sole Distributor, Washington, D. C.," and in addition there was on each label a pictorial representation of a woman drawing water from a spring. Previous to the purchase of these samples on May 23, 1908, an inspector visited the establishment of the Arlington Bottling Company and ascertained that the water contained in bottles bearing the label above set forth was manufactured in said establishment and was a distilled water artificially lithiated. It was evident that the water was misbranded in violation of section 8 of the act in that the label thereon clearly conveyed the impression that the article was a natural lithia water. Accordingly, on September 29, 1908, the facts were reported by the Secretary of Agriculture to the Attorney-General and the case

referred to the United States attorney for the District of Columbia, who forthwith filed an information against the said Charles Jacobsen, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved: *Board of Food and Drug Inspection.*  
JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *September 20, 1909.*

(N. J. 95.)

**MISBRANDING OF CANNED CORN.**  
(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 6th day of February, 1909, in the district court of the United States for the western district of Kentucky, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of 800 cases of canned corn, which were misbranded, in this, that each case was labeled and branded "2 dozen 2 lbs. Dana's Luscious Sugar Corn, packed by the Carthage Cannery, Carthage, Ind.," whereas the average gross weight of each can did not exceed 23 ounces, the F. T. Gunther Grocery Company, of Owensboro, Ky., consignee, having filed its claim to the goods, but declining to plead, and the case having come on for final hearing, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SIXTH CIRCUIT  
AND WESTERN DISTRICT OF KENTUCKY, OWENSBORO, KY.

UNITED STATES OF AMERICA  
vs.  
EIGHT HUNDRED CASES OF CANNED CORN.}

Came the libelant, United States, by counsel, came also the claimant, The F. T. Gunther Grocery Company, Incorporated, by its president, and by agreement this case is submitted to the court, and the claimant declining to plead further or offer proof, it is therefore adjudged that the articles described in the return of the marshal herein, to wit, four hundred and forty-one cases of canned corn, are condemned as forfeited to the United States according to the prayer of the libel.

And thereupon came the claimant, and moved the court to order that upon payment of the costs of the libel proceedings herein, and upon the execution and delivery of a good and sufficient bond, in the sum of five hundred dollars (\$500.00), that the words and characters "2 lbs." shall be erased from the original packages containing the goods seized herein, before the sale thereof, and

that the articles condemned herein shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act, or the laws of any State, Territory, District, or insular possessions, and said articles condemned herein shall be delivered to said claimant as the owner thereof, and the district attorney not objecting to the amount of said bond, it is now ordered and adjudged that said motion be granted, and thereupon said claimant produced and delivered to the court its bond, with R. S. Hughes as surety, which bond is approved by the court, and it is ordered that upon payment of the costs herein to the clerk, the articles condemned herein shall be delivered to said claimant, said F. T. Gunther Grocery Company, Incorporated.

The facts in this case were as follows:

On or about January 30, 1909, an inspector of the Department of Agriculture found in the possession of the F. T. Gunther Grocery Company, Owensboro, Ky., 800 cases (each containing 2 dozen cans) of corn labeled "2 dozen 2 lbs. Dana's Luscious Sugar Corn, packed by the Carthage Cannery, Carthage, Ind." The corn had been shipped the F. T. Gunther Company by the Henry Coburn Storage and Warehouse Company, a corporation, of Indianapolis, Ind., for account of J. M. Paver and Company, and were invoiced by the Dana Canned Goods Company, a corporation doing business at Belpre, Ohio. A number of cans were weighed by the inspector and the average gross weight of each was found to be 23 ounces. The corn was, therefore, misbranded within the meaning of section 8 of the act, and on February 1, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Kentucky, and libel for seizure and condemnation was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved: *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *September 23, 1909.*

(N. J. 96.)

#### MISBRANDING OF A CEREAL.

(AS TO QUALITY AND DIGESTIVE PROPERTIES.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 23d day of February, 1909, in the district court of the United States for the district of Connecticut, in a prosecution by the United States against the New England Food Company, a corporation of South Norwalk, Conn., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Connecticut to Massachusetts certain packages of a food

product, labeled "Nivara Cereal Food. Nivara is made from rice, wheat and barley malt, no sweetening or shortening. Mfg. by the New England Food Co., South Norwalk, Conn. A wonderful property of Nivara is that it helps to digest other foods. It is a rich concentrated food," which were misbranded within the meaning of section 8 of the act in that the cereal did not in fact have the property of helping to digest other food, and was not a rich concentrated food, the said New England Food Company having entered a plea of guilty, the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On March 16, 1908, an inspector of the Department of Agriculture purchased from the Henry Siegel Company, Boston, Mass., samples of a food product labeled as above stated. The goods were a part of a shipment made by the manufacturers, the New England Food Company, South Norwalk, Conn., to Henry Siegel Company, on or about September 10, 1907. A sample of the product was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture, and the following results obtained and stated:

Water (per cent) -----	3.78
Ash (per cent) -----	1.70
Fat (per cent) -----	.11
Protein (per cent) -----	12.31
Crude fiber (per cent) -----	1.07
Carbohydrates by difference (per cent) -----	81.03
Fuel value (calories per gram) -----	3,977.72

It was evident that the article was not a rich concentrated food, and had not the property of assisting in the digestion of other foods, and was therefore misbranded within the meaning of section 8 of the act, because the statements on the label that "Nivara is a rich concentrated food" and "a wonderful property of Nivara is that it helps to digest other foods" were false, misleading, and deceptive.

The Secretary of Agriculture having, on August 11, 1908, afforded the dealer and manufacturer a hearing, and the dealer having established a guaranty, and the manufacturers having failed to show any fault or error in the aforesaid analysis, the facts were reported on January 29, 1909, to the Attorney-General, and the case referred to the United States attorney for the district of Connecticut, who filed an information against the New England Food Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved: *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., September 20, 1909.

(N. J. 97.)

## MISBRANDING OF CANNED TOMATOES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *vs.* 135 cases of canned tomatoes, a proceeding of libel under section 10 of the aforesaid act, lately pending in the district court of the United States for the district of Colorado, for seizure and condemnation of the said canned tomatoes which were misbranded in this, that each case was labeled and branded "2 doz. 2½ lb. Cans Tomatoes from Riverdale Canning Co., Packers of Choice Utah Tomatoes, Riverdale, Utah," whereas the average gross weight of the cans contained therein was only 2 pounds 3 ounces. The Henkel-Duke Mercantile Company, a corporation of Pueblo, Colo., consignee, having entered a claim to the goods and consented to a decree and the case having come on for final hearing on February 23, 1909, the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA  
vs.

ONE HUNDRED AND THIRTY-FIVE CASES OF CANNED TOMATOES.

} No. 2233.

In this cause, it appearing to the court that (the said United States of America, by Thomas Ward, jr., United States Attorney for the District of Colorado, and The Henkel-Duke Mercantile Company, a corporation, the claimants and owners of the property seized herein, by Charles Henkel, its president, consenting thereto), under the process issued in this cause, one hundred and eleven cases of canned tomatoes were seized by the United States Marshal at the city of Pueblo, in the County of Pueblo, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that the said cases were misbranded, in this, that the said cases purported to contain two dozen cans of tomatoes, each can containing two and one-half pounds of tomatoes; whereas, in truth and in fact, the said cans in said cases did not contain to exceed thirty-four and two-third ounces of tomatoes, and the said brands upon the said cases were, therefore, misleading and calculated to deceive purchasers;

And it further appearing, by like consent, that said The Henkel-Duke Mercantile Company has agreed that an order may be entered at once, condemning and confiscating said property to the United States, for the reason that the same are misbranded as charged in the libel herein.

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the marshal of the court, be, and the same is hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by said The Henkel-Duke Mercantile Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond in the sum of one thousand dollars, to be filed

with the clerk in this cause, conditioned that this property shall not be sold or otherwise disposed of contrary to the provisions of the act (ch. 3915, 59th Congress, 34 Stat. L. 768), commonly known as the "Pure Food and Drugs Act" (Act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to said The Henkel-Duke Mercantile Company, or its agents.

By the court.

ROBT. E. LEWIS, *Judge.*

FEBRUARY 23, 1909.

It is hereby stipulated and agreed that the foregoing order may be entered of record in the above-entitled cause.

THOMAS WARD, Jr.,

*United States Attorney for the District of Colorado.*

CHARLES HENKEL,

*President of the Henkel-Duke Mercantile Company.*

The facts in the case were as follows:

On or about January 30, 1909, an inspector of the Department of Agriculture found in the possession of the Henkel-Duke Mercantile Company, Pueblo, Colo., 135 cases (each containing 24 cans) of tomatoes and labeled "2 doz. 2½ lb. Cans Tomatoes from Riverdale Canning Company, Packers of Choice Utah Tomatoes, Riverdale, Utah." These goods had been shipped to the Henkel-Duke Mercantile Company by the Riverdale Canning Company from Ogden, Utah, on October 7, 1907. A number of the cans were weighed by the inspector and the average gross weight of each was found to be 2 pounds 3 ounces. The cases were, therefore, misbranded within the meaning of section 8 of the act, and on January 30, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado and libel for seizure and condemnation was duly filed with the results hereinbefore stated.

H. W. WILEY,

F. L. DUNLAP,

Approved: *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., *September 23, 1909.*

(N. J. 98.)

#### ADULTERATION AND MISBRANDING OF SYRUP.

(AS TO PRESENCE OF MAPLE SUGAR.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of April, 1909, in the district court of the United States for the eastern district of Michigan in a prosecution by the United States against E. A. Char-

bonneau Company, a corporation of Detroit, Mich., for violation of section 2 of the aforesaid act in the shipping and delivering for shipment from Michigan to Ohio of an adulterated and misbranded syrup, that is to say, a syrup labeled in part "Maple Sugar 40%, Cane Sugar 60%," whereas, in fact, the syrup contained no maple sugar, the said E. A. Charbonneau Company, having entered a plea of *nolo contendere*, the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On March 20, 1908, an inspector of the Department of Agriculture purchased from Jas. Carson and Company, Springfield, Ohio, a sample of a syrup labeled "Belle Isle Pure Vermont Syrup. Formula, Maple Sugar 40%, Cane Sugar 60%. Put up by E. A. Charbonneau Co., Detroit, Michigan," which sample was part of a shipment made by the E. A. Charbonneau Company from Detroit, Mich., to Springfield, Ohio, on or about December 20, 1907. This sample was subjected to analysis in the Bureau of Chemistry of the Department of Agriculture and the following results obtained and stated:

Total solids (per cent) -----	67.82
Total ash (per cent) -----	.075
Water soluble ash (per cent) -----	.055
Insoluble ash (per cent) -----	.020
Alkalinity of soluble ash (cc N/10 acid) -----	.025
Alkalinity of insoluble ash (cc N/10 acid) -----	.145
Polarization, direct at 20° C (°V) -----	+64.5
Polarization, invert at 20° C (°V) -----	-23.6
Polarization, invert at 86° C (°V) -----	0.0
Sucrose, Clerget (per cent) -----	66.41
Commercial glucose -----	0.0
Lead number -----	None.

It was apparent that the article was adulterated and misbranded; adulterated because of the substitution of cane sugar for maple sugar and misbranded because it was labeled "Maple Sugar 40%, Cane Sugar 60%," when, as a matter of fact, it contained no maple sugar. The Secretary of Agriculture having, on September 30, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis and they having failed to do so, the facts were reported to the Attorney-General on February 20, 1909, and the case referred to the United States attorney for the eastern district of Michigan, who filed an information against the said E. A. Charbonneau Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved : *Board of Food and Drug Inspection.*

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., September 23, 1909.

(N. J. 99.)

## MISBRANDING OF SYRUP.

(AS TO PLACE OF MANUFACTURE AND AMOUNT OF MAPLE SUGAR PRESENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 23d day of April, 1909, in the district court of the United States for the southern district of California, in a prosecution by the United States against the Pacific Coast Syrup Company, a corporation of Los Angeles, Cal., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from California to Arizona a misbranded syrup, that is to say, a syrup labeled "Strictly Pure Canada Maple and White Sugar Blended Syrup," which was in fact produced in the United States and which contained a very small amount of maple syrup, the said Pacific Coast Syrup Company having entered a plea of guilty, the court imposed upon it a fine of \$10 and costs of the prosecution.

The facts in the case were as follows:

On January 18, 1908, an inspector of the Department of Agriculture purchased from John Ghiotto, Yuma, Ariz., a sample of a food product labeled "Strictly Pure Canada Maple and White Sugar Blended Syrup. Pacific Coast Syrup Co. San Francisco, Los Angeles, Seattle, Portland." This sample was a part of a shipment made by the Pacific Coast Syrup Company from Los Angeles, Cal., to John Ghiotto, Yuma, Ariz., on or about November 7, 1907. The sample was subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture, and was found to contain but a very small amount of maple syrup.

It was apparent that the syrup was misbranded within the meaning of section 8 of the act in that the label "Strictly Pure Canada Maple and White Sugar Blended Syrup" represented that the syrup was composed for the greater part of maple syrup and that its source of origin was the Dominion of Canada, whereas it contained but a very small amount of maple syrup and was produced and manufactured in California. The Secretary of Agriculture having, on August 5, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis and they having failed to do so, the facts were duly reported to the Attorney-General on December 17, 1908, and the case referred to the United States attorney for the southern district of California, who filed an information against the said Pacific Coast Syrup Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,

Approved:

Board of Food and Drug Inspection.

JAMES WILSON,

Secretary of Agriculture.

WASHINGTON, D. C., September 23, 1909.



## United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

**NOTICE OF JUDGMENT NOS. 100-101, FOOD AND DRUGS ACT.**

100. Misbranding of sirup (As to place of manufacture and manufacturer).

101. Adulteration of oats (Mixed with barley and other grains).

(N. J. 100.)

**MISBRANDING OF SIRUP.**

(AS TO PLACE OF MANUFACTURE AND MANUFACTURER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in case of the United States *v.* 20 full barrels and 8 half barrels of sirup, a proceeding of libel, lately pending in the district court of the United States for the middle district of Pennsylvania, for seizure and condemnation of said sirup under section 10 of the aforesaid act for the reason that it was misbranded in this, it was labeled "George Bubb and Sons, Haleeka Club Sirup, Compound 90 per cent Corn Sirup, 10 per cent Refiners Sirup, Williamsport, Pa.," whereas, in fact, it had been manufactured at Granite City, Ill., by the Corn Products Refining Company, of New York City. George Bubb and Sons, of Williamsport, Pa., interposed their claim to the sirup, and the case having come on to be heard on January 14, 1909, in pursuance of an agreement for entry of a consent decree, the court adjudged the sirup misbranded as alleged in the libel and rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, MIDDLE DISTRICT OF PENNSYLVANIA.

UNITED STATES OF AMERICA

vs.

TWENTY FULL BARRELS AND EIGHT  
Half Barrels of Syrup.

And now, January 14, 1909, it appearing to the court, the United States, by Charles B. Witmer, United States attorney, and George Bubb and Sons, the claimants and owners of the property seized herein, by their attorneys, Candor and Munson, consenting thereto, that under the process issued in this cause, ten full barrels and three half barrels being branded Geo. Bubb and Sons, Haleeka Club Syrup, Compound 90 per cent, 10 per cent Refiners Syrup, Williamsport, Pa., Guaranteed under Food and Drugs Act June 30, 1906, Serial No. 2317, and ten full barrels and three half barrels branded Geo. Bubb and Sons, Haleeka Club Syrup, Compound 90 per cent Corn Syrup, 10 per cent Refiners Syrup, Williamsport, Pa., were seized by the United States marshal in the possession

of Geo. Bubb and Sons, wholesale grocers and jobbers in the city of Williamsport, Lycoming County, Pennsylvania; that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that said barrels and half barrels containing said syrup were misbranded, the same appearing to deceive and mislead the purchaser.

And it further appearing by like consent that the said Geo. Bubb and Sons have agreed that an order may be entered at once condemning and confiscating the said property to the United States;

It is, therefore, ordered, adjudged, and decreed that the said twenty full barrels and six half barrels of syrup above described, now in the possession of the marshal of the court, be, and the same are hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said Geo. Bubb and Sons of the costs of this proceeding and the execution and delivery of a good and sufficient bond in the sum of one thousand dollars to be filed with the clerk in this cause, conditioned that said twenty full barrels and six half barrels of syrup shall not be sold or otherwise disposed of contrary to the provisions of the act of June 30, 1906, commonly known as the Pure Food and Drugs Act, or contrary to the laws of the State of Pennsylvania, then the marshal of this court is hereby directed to deliver said twenty full barrels and six half barrels of syrup to the said Geo. Bubb and Sons, or their agents.

And in the event that said Geo. Bubb and Sons shall fail to pay the costs of this proceeding, or fail to give bond as above provided within fifteen days from the entry of this order, then the marshal of this court is directed, after first properly branding said twenty full barrels and six half barrels of syrup, to advertise the same for sale in some newspaper published in the city of Williamsport, for a period of fifteen days and sell the same at the county court house on the public square of said city from curb to the highest bidder.

BY THE COURT:

R. W. ARCHBALD,  
*District Judge.*

The facts in the case were as follows:

On or about January 5, 1909, an inspector of the Department of Agriculture found in the possession of George Bubb and Sons, Williamsport, Pa., 20 barrels and 8 half barrels of sirup labeled "George Bubb and Sons, Haleeka Club Sirup, Compound 90 per cent Corn Sirup, 10 per cent Refiners Sirup, Williamsport, Pa." The sirup had been shipped by the Corn Products Refining Company from Granite City, Ill., to George Bubb and Sons, Williamsport, Pa., on December 14, 1908. It was misbranded in violation of section 8 of the act because the label thereon represented that it had been manufactured by George Bubb and Sons, at Williamsport, Pa., when, in fact, it had been manufactured by the Corn Products Refining Company at Granite City, Ill. On January 6, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the middle district of Pennsylvania and libel for seizure and condemnation of the sirup, under section 10 of the act, was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., September 30, 1909.

(N. J. 101.)

## ADULTERATION OF OATS.

(MIXED WITH BARLEY AND OTHER FOREIGN GRAINS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 3,000 bushels of oats, more or less, contained in two cars, a proceeding of libel for seizure and condemnation of said oats under section 10 of the aforesaid act, lately pending, and finally determined on April 6, 1909, in the district court of the United States for the northern district of Georgia, wherein the Interstate Warehouse and Elevator Company, a corporation, of St. Louis, Mo., was claimant. The oats were adulterated within the meaning of section 7 of the aforesaid act, for that, whereas the oats were consigned and sold as "No. 3 white oats," other substances, namely, barley, chaff, and other seeds not oats, had been mixed therewith so as to reduce and lower the quality and strength of the oats and said substances had been substituted in part for oats.

The claimant having admitted the allegations of the libel, and the case having come on for final hearing on April 6, 1909, a decree of forfeiture and condemnation as hereinbelow set out was rendered, and the goods were redelivered to claimant under bond in accordance with the provisions of the act.

IN THE DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF GEORGIA, MARCH TERM, 1909.

THE UNITED STATES

vs.

TWO CAR LOADS OF ABOUT THREE THOUSAND  
bushels of oats, purporting to be No. 3 White  
Oats, shipped in L. and N. cars Nos. 91862 and  
91113, consigned S. Order Notify T. H. Brooke &  
Co., Atlanta, Ga., Interstate Warehouse and Ele-  
vator Company, Claimant.

No. 119. Libel in Rem.

## DECREE.

Now, on this day this cause coming on for hearing on the agreed stipulation and consent of the parties, and the cause being submitted by the parties hereto upon the pleadings and admissions of the intervening claimant, the Interstate Warehouse and Elevator Company, and the said claimant, by its attorney, having appeared in court and having waived the time and place of hearing, and having admitted the allegations and charges contained in the libel of information, and having consented that a final decree of condemnation be made in said case, as provided for in section 10 of the act of Congress of June 30, 1906:

Wherefore, it is considered ordered, adjudged, and decreed by the court that the United States marshal shall label and brand said oats, and the bags containing the same, as follows, to-wit: "White Oats and Barley Mixed;" that the said marshal shall advertise and sell said oats as provided by law, and shall, out of the proceeds of such sale, pay all costs, expenses, and legal charges incident to said seizure and proceedings in said case, including the freight on said oats, the cost of sacking and storage, and pay the remainder, if any, into the Treasury of the United States, as provided in section 10 of said act of Congress: *Provided*,

however, That the said Interstate Warehouse and Elevator Company, the intervenor herein, upon the payment of all the costs of this libel, including the costs of seizure, removal, storage, freight charges, and all the expenses incurred therein, and upon the execution and delivery of a good and sufficient bond, with security, in the sum of \$1,600, conditioned that the said Interstate Warehouse and Elevator Company, claimant as aforesaid, shall label said goods in accordance with the judgment of this court, to-wit, as "White Oats and Barley Mixed," and further conditioned, that said Interstate Warehouse and Elevator Company will not sell or dispose of said goods in violation of the laws of the United States, or the laws of any State, Territory, District or Insular Possession of the United States, then the said Interstate Warehouse and Elevator Company shall have the right to the possession of said goods now in the possession of the United States marshal, and the said United States marshal, and his lawful deputies, are hereby directed to deliver to the said Interstate Warehouse and Elevator Company the aforesaid goods upon the execution and delivery of the aforesaid bond and the payment of the aforesaid costs, expenses, and charges within twenty days from this date.

In open court this the 6th day of April, 1909.

WM. T. NEWMAN, U. S. Judge.

The facts in the case were as follows: On March 24, 1909, R. E. Stallings, State chemist of Georgia, acting under directions of Hon. T. G. Hudson, commissioner of agriculture of said State, in pursuance of the authorization of the Secretary of Agriculture of the United States, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in Atlanta, Ga., a consignment of two carloads of grain purporting to be "No. 3 White Oats," samples of which were taken and analyzed. The oats had been shipped by the Interstate Warehouse and Elevator Company from St. Louis, Mo., on or about March 17, 1909, to Atlanta, Ga., with instructions to notify T. H. Brooke & Co., of the last named city. The analysis disclosed that the oats in one of the cars contained 19.25 per cent of barley and 8.55 per cent of other seeds not oats and chaff, and that the oats in the other car contained 23.98 per cent of barley and 5.86 per cent of chaff and other seeds not oats.

The facts were reported by the Commissioner of Agriculture of Georgia to the United States attorney for the northern district of said State and libel for seizure and condemnation of the oats was duly filed, under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., September 30, 1909.

United States Department of Agriculture,  
OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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NOTICE OF JUDGMENT NOS. 102-110, FOOD AND  
DRUGS ACT.

102. Misbranding of distiller's dried grains. (As to protein and fat content.)  
103. Adulteration of eggs. (Presence of putrid and decomposed animal matter.)  
104. Adulteration and misbranding of stock feed. (As to presence of rice hulls.)  
105. Adulteration and misbranding of a cereal. (As to presence of wheat.)  
106. Misbranding of a cane sirup. (As to presence of glucose.)  
107. Misbranding of Vermont or maple sugar. (As to presence of cane sugar.)  
108. Misbranding of preserves. (Underweight.)  
109. Adulteration and misbranding of cottonseed meal. (As to presence of cottonseed hulls.)  
110. Misbranding of sirup. (As to quantity.)

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(N. J. 102.)

**MISBRANDING OF DISTILLER'S DRIED GRAINS.**

(AS TO PROTEIN AND FAT CONTENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of December, 1908, in the district court of the United States for the southern district of Ohio, in a prosecution by the United States against the J. W. Biles Company, a corporation of Cincinnati, Ohio, for violation of section 2 of the aforesaid act, in the shipping and delivering for shipment from Ohio to New York, a food product labeled "R. Distiller's Dried Grains. 26 per cent Protein. 10 per cent Fat. The J. W. Biles Co., Cincinnati, Ohio," which was misbranded in this, that it contained only 21.22 per cent of protein and 9.40 per cent of fat, the said J. W. Biles Company having entered a plea of guilty, the court imposed upon it a fine of \$1 and the costs of the prosecution.

The facts in the case were as follows:

On December 16, 1907, an inspector of the Department of Agriculture purchased from Henry & Missent, 92-94 Michigan street, Buffalo, N. Y., a sample of distiller's dried grains labeled "R. Distiller's Dried Grains. 26 per cent Protein. 10 per cent Fat. The J. W. Biles Co., Cincinnati, Ohio," which was a part of a shipment made by the J. W. Biles Company, Cincinnati, Ohio, to Henry & Missent, Buffalo, N. Y. The sample was subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Moisture	10.99
Fat	9.40
Protein	21.22

It was apparent, therefore, that the goods were misbranded as they were labeled as containing 26 per cent of protein and 10 per cent of fat, whereas they contained only 21.22 per cent of protein and 9.40 per cent of fat. The Secretary of Agriculture having on July 14, 1908, afforded the manufacturers an opportunity to show any fault or error in the findings of the analyst and they having failed to do so, the facts were duly reported to the attorney-general and the case referred to the United States attorney for the southern district of Ohio, who filed an information against the said J. W. Biles Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

(N. J. 103.)

### ADULTERATION OF EGGS.

(PRESENCE OF PUTRID AND DECOMPOSED ANIMAL MATTER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* Twenty-five packages, each containing 30 dozen eggs, a proceeding for libel for seizure and condemnation of said eggs under section 10 of the aforesaid act and in the case of the United States *v.* Samuel Cohen, a prosecution under section 2 of the act, for shipping and delivering said eggs for shipment, lately pending in the district court of the United States for the eastern district of Pennsylvania. The eggs were adulterated within the meaning of section 7 of the act in that they consisted in whole or in part of putrid and decomposed animal matter, rendering them unfit for human food. Seizure of the eggs having been effected under libel filed therefor, and this case coming on for hearing on December 22, 1908, in pursuance of notice to all parties interested, and after full testimony for the United States, no claimant appearing, the court rendered its decree, adjudging the eggs adulterated and ordering their destruction, in form and substance as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT  
OF PENNSYLVANIA.

<p>THE UNITED STATES OF AMERICA vs. TWENTY-FIVE PACKAGES EACH CONTAINING Thirty Dozen Eggs.</p>	<p>Libel for condemnation No. 8 of 1908.</p>
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To the Honorable, The Judges of the district court of the United States for the eastern district of Pennsylvania:

On motion of J. Whitaker Thompson, esq., attorney for the United States in and for the eastern district of Pennsylvania, and attorney for the libelant herein, and it appearing to the court that upon the libel filed herein on the 22nd day of December, A. D. 1908, and under the process issued thereunder and pursuant thereto, the marshal for the eastern district of Pennsylvania has seized twenty-five packages, each containing thirty dozens of eggs, the said twenty-five packages, each containing thirty dozens of eggs, having been in the possession of the Pennsylvania Railroad Company, at, to wit, its freight depot, located at Delaware avenue and Walnut street, in the city of Philadelphia, and district aforesaid, and the said twenty-five packages, each containing thirty dozens of eggs, having been theretofore, on, to wit, the 22nd day of December, A. D. 1908, deposited with the said Pennsylvania Railroad Company, for transportation from the State of Pennsylvania to the State of New York by Louis Lazar as consignor, and consigned to Charles Lazar, New York City, New York, consignee, and now being stored in the custody of the said marshal;

And it further appearing by the sworn report of the analyst filed in this case, of the examinations of samples of the said eggs, as is provided by the said act of Congress of June 30th, 1906, that the said eggs are adulterated and of a deleterious character, within the meaning of the said act of Congress;

And it further appearing that due and legal notice and proclamation were given to all persons having any claim, right, or interest herein to appear on the 15th day of January, A. D. 1909, and answer the exigencies of the said libel; and on the said return day the said Louis Lazar, consignor, and the said Charles Lazar, consignee, as aforesaid, having defaulted in filing an answer to the said libel, the said Pennsylvania Railroad Company having filed an answer admitting the possession of the said twenty-five packages, each containing thirty dozens of eggs, for transportation as aforesaid, and no party having appeared as claimant or owner of the said twenty-five packages, each containing thirty dozens of eggs, and no objection having been signified to the court, it is, on this — day of January, A. D. 1909:

Ordered, adjudged, and decreed, that the said twenty-five packages, each containing thirty dozens of eggs, as aforesaid, be, and they are hereby, declared to be adulterated in violation of the act of June 30th, 1906, as charged in said libel.

And it is further ordered, that the said twenty-five packages, each containing thirty dozens of eggs as aforesaid, be, and they are hereby, condemned and ordered to be destroyed, as prayed for in the said libel, and provided for in the act of Congress of June 30th, 1906; and it is further ordered and decreed, that the same be destroyed by the marshal and that he make report of such destruction to the court.

By the court.

MC PHERSON,  
United States District Judge.

Attest:

H. W. CRAIG,  
Clerk, Dist. Court, United States, Eastern Dist. Pa.

Subsequently it developed that one Samuel Cohen of Philadelphia, Pa., was the consignor of these eggs, whereupon the facts were presented to the grand jury and indictment returned against said Cohen for violation of section 2 of the act, in shipping and delivering for shipment the aforesaid eggs from Pennsylvania to New York; defendant was arraigned thereon and on March 10, 1909, entered his plea of guilty, upon which the court rendered its judgment and passed sentence as follows:

And now the defendant being arraigned says he is guilty in manner and form as he stands indicted, and now all and singular the premises being seen and by the court here fully understood, it is considered and adjudged that the defendant, Samuel Cohen, pay to the United States a fine of \$50.00, that he pay the cost of the prosecution, and stand committed until judgment be fully complied with. The defendant this day pays into the registry of the court the fine of \$50.00, and the cost \$51.68, and is therefore discharged from custody.

The facts in the case were as follows:

On or about December 22, 1908, an inspector of the dairy and food division of the Pennsylvania department of agriculture, acting under authorization from the Secretary of the United States Department of Agriculture to James Foust, dairy and food commissioner of said State, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Pennsylvania Railroad Company at Philadelphia, Pa., twenty-five cases of eggs, which had been delivered for shipment from that city to Louis Lazar, New York, N. Y. Samples of the eggs were procured and subjected to analysis and found to be decomposed and unfit for human consumption.

The facts were reported to the United States attorney for the eastern district of Pennsylvania, by whom libel for seizure under section 10 of the act was promptly filed and prosecution instituted under section 2, as above stated, with the result hereinbefore set out.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

(N. J. 104.)

**ADULTERATION AND MISBRANDING OF STOCK FEED.**

(AS TO PRESENCE OF RICE HULLS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations

for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* Two hundred bags "Stafolife Feed," a proceeding of libel for seizure and condemnation of said feed under section 10 of the aforesaid act, wherein the Lawrence & Hamilton Feed Company, Limited, a corporation of New Orleans, La., was claimant, lately pending and finally determined on April 14, 1909, in the district court of the United States for the northern district of Georgia, by rendition of a decree of condemnation and forfeiture as hereinafter stated. The product was labeled in part, "Composed: Rice Bran; Corn; Cotton Seed Meal; Molasses," and was adulterated and misbranded in this, that 5 per cent of rice hulls had been substituted in part for the ingredients represented on the label to be therein. The claimant having admitted the allegations of the libel, and the cause having come on for hearing, the court rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA, MARCH TERM, 1909.

THE UNITED STATES

*vs.*

TWO HUNDRED BAGS STAFOLIFE FEED, LAWRENCE &  
Hamilton Feed Company, Limited, *Claimant.*

No. 120. Libel in rem.

DECREE.

Now, on this day this cause coming on for hearing on the agreed stipulation and consent of the parties, and the cause being submitted by the parties hereto upon the pleadings and admissions of the intervening claimant, Lawrence & Hamilton Feed Company, Limited, and the said claimant, by its agents and representatives, having appeared in court and having waived the time and place of hearing, and having admitted the allegations contained in the libel of information, and having consented that a final decree of condemnation be made in said cause, as provided for in section 10 of the act of Congress of June 30, 1906;

Wherefore, it is considered, ordered, adjudged and decreed by the court that the United States marshal shall brand such Stafolife Feed as follows, to-wit: "Composed of rice bran, corn, cottonseed meal, molasses, and rice hulls;" that said marshal shall advertise and sell said Stafolife Feed as provided by law, and shall, out of the proceeds of such sale, pay all costs, expenses, and legal charges incident to seizure, proceedings, and sale in said case, including the costs of storage, the cost of rebranding, and pay the remainder, if any, into the Treasury of the United States, as provided in section 10 of said act of Congress: *Provided, however,* That the said Lawrence & Hamilton Feed Company, Limited, the intervenor herein, upon payment of all costs of this libel, including the costs of seizure, storage, and all the expenses of every nature incurred therein, and upon the execution and delivery of a good and sufficient bond, with approved security, in the sum of five hundred dollars, conditioned that the said Lawrence & Hamilton Feed Company, Limited, claimant as aforesaid, shall label said goods in accordance with the judgment of this court, to-wit: "Composed of rice bran, corn, cottonseed meal, molasses, and rice hulls," and further conditioned that said Lawrence & Hamilton Feed Company, Limited, will not sell or dispose of said

goods in violation of the laws of the United States, or the laws of any State, Territory, district, or insular possession of the United States, then, the said Lawrence & Hamilton Feed Company, Limited, shall have the right to the possession of said goods now in the possession of the United States marshal, and the said United States marshal is hereby directed to deliver to the said Lawrence & Hamilton Feed Company, Limited, the aforesaid goods upon the execution and delivery of the aforesaid bond, and the payment of the aforesaid costs, expenses, and charges, within twenty days from this date.

In open court this 14th day of April, 1909.

W.M. T. NEWMAN,  
*U. S. Judge.*

The facts about this case were as follows:

On or about March 15, 1909, an inspector of the Department of Agriculture, acting in conjunction with R. E. Stallings, State chemist of the State of Georgia, found in the possession of the Nickajack Milling Company, at Atlanta, Ga., 200 bags of a feed product labeled "Protein 11.00; Fat 6.00; Carbo Hydrates 53.00; Fiber 11.00. Stafolife. Manufactured by Lawrence & Hamilton Feed Co., Ltd., New Orleans, La." and to each of these bags was attached a tag on which was the following: "Stafolife Feed. Manufactured by Lawrence & Hamilton Feed Co., Limited. New Orleans, La. Guaranteed Analysis. Crude Fiber 11.00; Fat 6.00; Protein 11.00; Carbo Hydrates 53.00. Composed rice bran; corn; cottonseed meal; molasses. Net weight 100 pounds." These goods had been shipped by the manufacturers, the Lawrence & Hamilton Company, from New Orleans, La., to Atlanta, Ga., on March 4, 1909. A sample of the product was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and it was found that, in addition to the ingredients noted on the label, the feed contained 5 per cent of rice hulls. It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated in that rice hulls had been mixed with and substituted in part for rice bran, corn, cottonseed meal, and molasses, thereby reducing, lowering, and injuriously affecting the quality and strength, and misbranded in that it purported to contain only rice bran, corn, cottonseed meal, and molasses, whereas it contained 5 per cent of rice hulls. These facts were accordingly reported by the Secretary of Agriculture to the United States attorney for the northern district of Georgia on March 27, 1909, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

## ADULTERATION AND MISBRANDING OF A CEREAL.

(AS TO PRESENCE OF WHEAT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 21st day of April, 1909, in the district court of the United States for the southern district of California, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of 500 sacks of a cereal labeled, "Iowa Rolled Oats Mixture, Manufactured by Acme Mills Company, Portland, Oregon," which was adulterated and misbranded in this: Adulterated in that 50 per cent of wheat product had been substituted in part for the oats and thereby reduced and lowered the quality and strength, and misbranded in that the statement on the label that it was rolled oats was false and misleading, for it was a mixture of oats and wheat, wherein the Acme Mills Company, a corporation of Portland, Oreg., was claimant, the cause having come on for final hearing, and the said claimant having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION.

UNITED STATES OF AMERICA, *Libelant*,  
*versus*  
 FIVE HUNDRED SACKS OF CEREALS LABELED  
 "Iowa Rolled Oats Mixture, Manufactured  
 by Acme Mills Company, Portland, Oregon,"  
*Defendants*. In rem.

## DECREE OF CONDEMNATION.

This cause came on regularly to be heard on the 19th day of April, 1909, said date being the return day heretofore fixed by the court for the return of process herein, and the United States marshal for the southern district of California having duly and regularly read and made the proclamation in open court, and the Acme Mills Company, a corporation organized and existing under and by virtue of the laws of the State of Oregon, being present in court by its attorneys, Messrs. Lawler, Allen, Van Dyke, & Jutten, who appeared for said corporation and announced that said corporation claimed the said five hundred sacks of cereals as the owner thereof, and moved the court that said Acme Mills Company, a corporation, be given up to and including the 20th day of April, 1909, in which to file its claim and answer in said cause, and the court having granted said motion, and the said Acme Mills Company, a corporation, having on the 20th day of April, 1909, duly and regularly filed its claim and answer in said cause, in and by which said claim and answer the said Acme Mills Company, a

corporation, claims to be the owner of each and all of said five hundred sacks of cereals heretofore seized and attached by the United States marshal under and by virtue of the process of this court in this proceeding, and said claimant having further by said answer admitted the truth of each and all of the allegations contained in the libel for condemnation heretofore filed in this proceeding, and said claimant having in and by said answer prayed this honorable court that an order be made herein that each and all of the said five hundred sacks of cereals seized by the said United States marshal in this proceeding as aforesaid be delivered to the said Acme Mills Company, a corporation, claimant and owner as aforesaid, for the purposes and under and by virtue of the provisions of section 10 of the act of Congress of June 30, 1906, known as the Food and Drugs Act, and upon the said claimant complying with such terms as may be required by law,

Now, therefore, the court finds that each and all of the allegations of said libel of condemnation are true, and that each and all of said five hundred sacks of cereals so seized by the United States marshal as aforesaid, and the article of food therein contained, were and are misbranded and adulterated as in said libel of condemnation set forth.

Now, therefore, it is hereby ordered, adjudged, and decreed that, upon the said claimant, Acme Mills Company, a corporation, producing to and delivering to this court, to be approved by this court and filed therein, a good and sufficient bond in the sum of one thousand dollars, conditioned that such articles shall not be sold or otherwise disposed of contrary to the provisions of said act of Congress of June 30, 1906, known as the Food and Drugs Act, or of the laws of any State, Territory, district, or insular possession, and upon the payment of the costs taxed herein, the said articles condemned herein, and the whole thereof, shall be delivered to the said claimant, said Acme Mills Company, a corporation, or to its duly authorized agent or representative, upon the conditions aforesaid, said costs being taxed in the sum of 47.30 dollars.

Dated this 21st day of April, 1909.

OLIN WELLBORN,  
*Judge.*

The facts in the case were as follows:

On or about March 22, 1909, an inspector of the Department of Agriculture found in the possession of Haas, Baruch & Co., Los Angeles, Cal., 500 sacks of a food product labeled "Iowa Rolled Oats Mixture, Manufactured by Acme Mills Company, Portland, Oregon." The goods had been shipped by the manufacturer, the Acme Mills Company, from Portland, Oreg., to Haas, Baruch & Co., Los Angeles, Cal., on or about January 28, 1909. A sample of the product was subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of 50 per cent of oats and 50 per cent of wheat. It was apparent, therefore, that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated for the reason that wheat had been substituted in part for the oats, and misbranded in that it was labeled "Iowa Rolled Oats Mixture," whereas it was not a mixture of oats, but a mixture of wheat and oats. On March 23, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the southern district of

California and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *November 1, 1909.*

(N. J. 106.)

**MISBRANDING OF A CANE SIRUP.**

(AS TO PRESENCE OF GLUCOSE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6, of the rules and regulations for the enforcement of the act, notice is given that on the 5th day of April, 1909, in the circuit court of the United States for the northern district of Georgia, in a prosecution by the United States against the D. R. Wilder Manufacturing Company, a corporation of Atlanta, Ga., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Georgia to Mississippi a misbranded sirup, the said D. R. Wilder Manufacturing Company having entered a plea of not guilty and the case having come on for trial upon testimony and argument of counsel, the jury rendered a verdict of guilty and the court thereupon imposed a fine of \$25 and costs of the prosecution, amounting to \$214.70.

The facts in the case were as follows:

On March 16, 1908, an inspector of the Department of Agriculture purchased from the Crawford Grocery Company, Greenville, Miss., a sample of sirup, which was labeled, "Wilder's Uniform Brand Syrup. Canned only by the D. R. Wilder Mfg. Co., Atlanta, Ga.," the same being printed in a quadrangular space formed by an arrangement of the words "Georgia Cane," printed in capital letters, which were represented as being interwoven with cane stalks, and on the opposite side of the cans appeared the following words "Best in the world," "The syrup that made Georgia famous," and on the side of the can in small type together with other descriptive matter, "This package contains eighty-five per cent pure Georgia cane and fifteen per cent pure corn syrup which is added to prevent granulation." The sample was part of a shipment made by the D. R. Wilder Manufacturing Company from Atlanta, Ga., to the Crawford Grocery Company, Greenville, Miss., on or about June 22, 1907. The sample was subjected to analysis in the

Bureau of Chemistry of the United States Department of Agriculture, and the following results obtained and stated:

Solids (per cent) .....	71.00
Polarization, direct, at 25°C. (°V.) .....	+76.9
Polarization, invert, at 25°C. (°V.) .....	+36.4
Polarization, invert, at 87°C. (°V.) .....	+48.4
Sucrose (Clerget) (per cent) .....	31.1
Glucose (87°C./163) (per cent) .....	29.7
Ash (per cent) .....	0.82

It was apparent that the article was misbranded within the meaning of section 8 of the act, because labeled to represent that it was Georgia cane sirup, whereas it was a mixture of cane sirup and glucose, and the statements in the label, "Georgia cane," "Best in the world," and "The syrup that made Georgia famous," were false and misleading.

The Secretary of Agriculture having on October 5, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were, on January 9, 1909, reported to the attorney-general and the case referred to the United States attorney for the northern district of Georgia, who filed an information against the said D. R. Wilder Manufacturing Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

(N. J. 107.)

### MISBRANDING OF VERMONT OR MAPLE SUGAR.

(AS TO PRESENCE OF CANE SUGAR.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 6th day of May, 1909, in the supreme court of the District of Columbia, in a proceeding of libel for condemnation of 150 pails of sugar, that is to say, a product containing not more than 50 per cent of maple sugar which had been billed and sold as "Vermont Sugar" and shipped in pails that bore no label to indicate its true character, wherein the United States was libellant and J. M. Beeman & Son, of Fairfax, Vt., were claimants, the cause having come on for a hearing and the said claimants having admitted the allegations of the libel, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

## IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA

vs.

150 PAILS OF SUGAR PURPORTING TO BE  
Vermont Sugar or Maple Sugar.

District No. 803.

## JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the court that upon the libel filed herein January 15, 1909, the marshal of the United States for the District of Columbia seized one hundred and forty-seven pails of sugar purporting to be Vermont sugar or maple sugar, being the same referred to in said libel, the said products being of the value of one hundred ten and  $\frac{25}{100}$  dollars (\$110.25), as appears by the inventory of said marshal filed herein, and it appearing to the court that the claimants of the said product so seized as aforesaid, A. B. Beeman and A. A. Beeman, trading as J. M. Beeman & Son, have entered their appearance and filed herein their admissions of the allegations of said libel, and consent that judgment may be entered pursuant to the prayer of the same, and no objection being signified to the court, it is accordingly this sixth day of May, A. D. 1909,

Adjudged, ordered, and decreed: That the said one hundred and forty-seven pails with contents purporting to be Vermont sugar or maple sugar, be, and they hereby are, declared to be misbranded in violation of the act of Congress approved June thirtieth, A. D. 1906 (34 Statutes at Large, 768), in that the contents of the said pails consist of not more than fifty per cent of maple sugar and the addition of some other substance having the appearance, color, and general semblance of the article known as maple or Vermont sugar, and in that the said pails mislead and deceive the purchaser and the public by containing a product which has the general semblance, appearance, color, and apparent condition of maple or Vermont sugar, and the said pails are not so labeled in any wise and bear no mark, brand, or device showing the true character of the substance they contain, and bear no formula or statement notifying the public that the contents of the said pails are not maple or Vermont sugar, and in that such deliberate unbranding and unlabeled is a deception within the meaning of the said act approved June thirtieth, A. D. 1906, of like effect in law by indirectly misleading the purchaser as a positive misbranding would be by directly misleading the purchaser, in manner and form as claimed in the said libel.

It is further ordered that the said one hundred and forty-seven pails of sugar purporting to be Vermont sugar or maple sugar, so as aforesaid in the custody of the said marshal, be, and they hereby are, ordered to be condemned and disposed of by sale under such terms and conditions as will not violate the provisions of the said act approved June thirtieth, A. D. 1906.

It is further ordered that the claimants, A. B. Beeman and A. A. Beeman, trading as J. M. Beeman and Son, pay all the costs of these proceedings.

It is provided, however, that upon said claimants, A. B. Beeman and A. A. Beeman, trading as J. M. Beeman and Son, paying all the costs of these proceedings and executing and delivering to the said United States a good and sufficient bond, with surety, to be approved by the court, in the penal sum of five hundred dollars, conditioned that the said one hundred and forty-seven pails of sugar purporting to be Vermont sugar or maple sugar shall not be sold or in any manner whatsoever disposed of contrary to the provisions of the said act approved June thirtieth, A. D. 1906, the said marshal shall redeliver and

surrender the said one hundred and forty-seven pails of sugar purporting to be Vermont sugar or maple sugar to the said claimants, A. B. Beeman and A. A. Beeman, trading as J. M. Beeman and Son, in lieu of such disposition by sale as aforesaid.

By the court.

(Signed)

THOS. H. ANDERSON, *Justice.*

The facts in the case were as follows:

On or about January 13, 1909, an inspector of the Department of Agriculture found in the possession of E. M. Sheetz, 505 Twelfth street, NW., Washington, D. C., 150 pails (4,970 pounds) of sugar which had been manufactured by J. M. Beeman & Son, Fairfax, Vt., and shipped to said Sheetz by the J. M. Washburne Company, of 50 Broadway, New York. The pails bore no label or other marks which would indicate the nature of the contents and the consignment was sold, billed, and shipped as "Vermont sugar." The contents of each pail had the color and other appearances of maple sugar. A sample of this product was collected by the inspector and subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Total solids	per cent	90.41
Polarization, direct, at 20° C. (°V.)		+73.9
Polarization, invert, at 20° C. (°V.)		-27.0
Sucrose (Clerget)	per cent	76.5
Reducing sugars	do	6.43
Total ash	do	.207
Insoluble ash	do	.137
Soluble ash	do	.070
Ratio of soluble to insoluble ash		1:2
Winton lead number		.62

It was apparent that the product was a mixture of cane and maple sugar and was misbranded within the meaning of sections 7 and 8 of the act, because it had been invoiced and sold under the name of "Vermont sugar" and had the appearance, color, and general semblance of a food product known as maple sugar or "Vermont sugar," and bore no label, brand, mark, or device of any kind showing the true character of the article. On January 14, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the District of Columbia and libel for seizure and condemnation under section 10 of the act was duly filed with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

## MISBRANDING OF PRESERVES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of May, 1909, in the district court of the United States for the western district of Texas, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of a misbranded food product, that is to say, 190 cases of preserves, labeled and branded as containing cans of "One Full Pound Convenient Preserves," whereas the average net weight of each can was found to be 14½ ounces, William Numsen & Son, a corporation of Baltimore, Md., consignor and claimant, having appeared and filed its answer and the case having been submitted to the court upon an agreed statement of facts, the court having found for the libellant, the United States, rendered its decree of forfeiture and condemnation in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS, AT SAN ANTONIO.

THE UNITED STATES OF AMERICA, *Libelant*,  
 v.  
 190 CASES OF PRESERVES. } No. 144, D. C. L.

## DECREE OF CONDEMNATION.

On this the 7th day of May, A. D. 1909, at a regular term of said court, sitting at the city of San Antonio, in said district, this cause regularly came on for trial, and it appearing to the court that upon the libel filed herein, monition and warrant of arrest were duly issued and served on the — day of April, A. D. 1909, and that by virtue of said warrant the marshal has seized and now holds the 189 cases of preserves, of the approximate value of six hundred and forty-six (646.00) dollars, containing four dozen cans to the case; the said 189 cases of preserves, with contents, having been seized within the premises and in the possession of Hugo, Schmeltzer & Co., a corporation duly incorporated under the laws of the State of Texas, having an office and doing business in said city of San Antonio, Bexar County, Texas, in said district, and now being stored in the custody of the said marshal, and it appearing that Wm. Numsen & Son, of Baltimore, Maryland, a duly incorporated concern, the respondent herein, the owner of said 189 cases of preserves, had duly filed an answer and waiver of further notice and summons herein, and were present in court by their agent and also by their attorneys of record herein, Messrs. Cocke & Cocke, and that due and legal notice and proclamation were given to all persons having or claiming to have any claim, right, or interest therein, or in or to said property, to appear on the same date and answer the said libel, and the said Hugo, Schmeltzer & Co., having been duly served with citation, and the said Wm. Numsen & Son, having so appeared by J. M. Allardyce, their agent and representative, and Messrs. Cocke & Cocke, their attorneys, aforesaid, and filed their said answer to the said libel, and the libellant appearing by Charles C. Cresson, jr., assistant United States attorney for the western district of Texas; the jury being waived by all parties, and said cause being tried by the court; the libellant and respondent

each making a statement to the court and agreeing in open court as to the facts in the case, and upon said agreement in open court submitted the same to the court and agree upon the judgment.

And the court now being fully advised in the premises finds for the libelant, and finds that the contents of said 189 cases of preserves contain each four dozen cans of preserves, an article of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, liquors, and for regulating traffic therein, and for other purposes," and that the same has been transported as canned preserves, in interstate commerce, from the city of Baltimore, in the State of Maryland, to the city of San Antonio, in the State of Texas, shipped to the said Hugo, Schmeltzer & Co., a corporation, duly incorporated, of said city of San Antonio, Texas, being all of such shipment found in original unbroken packages; that is, the court finds that said articles of food are misbranded and are in violation of said act of Congress in that said cases and cans, and each of them, contain less in weight than the amount as shown by the brands thereon, and the said articles of food were so transported in interstate commerce and delivered to the said Hugo, Schmeltzer & Co.

The court further finds that the article of food contained in the said 189 cases of preserves is not adulterated, poisonous or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case, and that the same were shipped only to a wholesale dealer and not sold direct to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said 189 cases of preserves, with the contents as aforesaid, be, and they hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel; and it is further ordered, adjudged, and decreed that the said 189 cases of preserves, with the contents as aforesaid, be, and they hereby are, condemned and forfeited as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, and marshal's costs, and costs of hauling, storage, watchman, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Wm. Numson & Son, a corporation duly incorporated, to the libelant of a good and sufficient bond in the sum of thirteen hundred (\$1300.00) dollars, conditioned that the said 189 cases of preserves, with the contents, as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, district, or insular possession, and that said Wm. Numson & Son will well and truly pay all costs in this behalf incurred, that said marshal shall redeliver the said 189 cases of preserves, with such of their contents as they now contain or may contain, at the time of said redelivery, to the said Wm. Numson & Son, and their agent and representative, Hugo, Schmeltzer & Co., in lieu of the retention and destruction thereof; the said bond to be filed herein, if at all, on this the 7th day of May, A. D. 1909; and that the libelant receive from the said Wm. Numson & Son, a corporation, duly incorporated, its costs herein, taxed at \$\_\_\_\_, for all of which execution shall issue, if the said costs are not paid as hereinbefore provided.

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United States Judge.

The facts in the case were as follows:

On or about March 30, 1909, an inspector of the Department of Agriculture found in the possession of Hugo, Schmeltzer & Co., San Antonio, Tex., 190 cases (each containing 4 dozen cans) of preserves labeled and branded, "One Full Pound Convenient Preserves, Wm. Numson Sons, Baltimore, Md." These goods had been shipped to said Hugo, Schmeltzer & Co. by Wm. Numson & Son, from Baltimore, Md., on or

about October 24, 1908. A number of the cans were weighed in the Bureau of Chemistry of the United States Department of Agriculture, and the average net weight was found to be 14½ ounces. The goods were, therefore, misbranded within the meaning of section 8 of the act, and on March 31, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Texas, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,  
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

(N. J. 109.)

**ADULTERATION AND MISBRANDING OF COTTONSEED MEAL.**

(AS TO PRESENCE OF COTTONSEED HULLS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 12th day of May, 1909, in the district court of the United States for the district of Indiana, in a proceeding of libel for seizure and condemnation of 600 sacks, more or less, of a cottonseed product, purporting to be cottonseed meal, shipped by the J. Lindsay Wells Company, a corporation of Memphis, Tenn., from Tennessee to Indiana, in sacks which bore no labels, but which consignment was invoiced and sold as cottonseed meal, whereas, in fact, it contained approximately 50 per cent of cottonseed hulls, wherein the United States was libelant and the said J. Lindsay Wells Company was claimant, the cause having come on for hearing and the said claimant having admitted the allegations of the libel, the court adjudged the product adulterated and misbranded and rendered a decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF  
INDIANA.

UNITED STATES <i>v.</i> SIX HUNDRED SACKS, MORE OR LESS, OF COTTON-SEED PRODUCT, purporting to be Cotton-Seed Meal.	} No. 6921.
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Now, at this day, comes the United States attorney for the district of Indiana, and J. Lindsay Wells Company, a corporation, claimant and owner of the said

three hundred eighty-five sacks of a cotton-seed product, purporting to be cotton-seed meal, by Weaver & Young, its proctors, and this cause now coming on to be heard on the pleadings herein, and after due deliberation being had in the premises the court finds that all the allegations contained in the libel are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed that the said three hundred eighty-five sacks of a cotton-seed product, purporting to be cotton-seed meal, are hereby condemned as being adulterated and being sold under the distinctive name of cotton-seed meal, under the provisions of the Food and Drugs Act of June 30, 1906, and it appearing to the court that the costs in this cause, taxed at thirty-two &  $\frac{3}{100}$  dollars, have been paid by the claimant, and the claimant having filed a good and sufficient bond herein, to the effect that said three hundred eighty-five sacks of a cotton-seed product, purporting to be cotton-seed meal, shall not be sold or otherwise disposed of, contrary to the provisions of the Food and Drugs Act of June 30, 1906.

It is further ordered, adjudged, and decreed that the marshal be, and he is hereby, directed to release the said three hundred eighty-five sacks of a cotton-seed product, purporting to be cotton-seed meal, and restore the same to the claimant herein.

The facts in the case were as follows:

On or about April 22, 1909, an inspector of the Department of Agriculture found in the possession of F. A. Nave, Attica, Ind., 600 sacks of a product purporting to be cottonseed meal, which had been shipped to him on or about April 2, 1909, by the J. Lindsay Wells Company, Memphis, Tenn. An analysis of a sample taken from this shipment was made in the Bureau of Chemistry, United States Department of Agriculture, and found to consist of approximately 50 per cent of cottonseed hulls. It was apparent that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated for the reason that cottonseed hulls had been mixed and packed with the cottonseed meal so as to reduce and lower and injuriously affect its quality and strength, and misbranded for the reason that it had been shipped, invoiced, and sold under the name of cotton-seed meal, whereas the product contained approximately 50 per cent of cottonseed hulls. Accordingly, on April 22, 1909, the Secretary of Agriculture reported the facts to the United States attorney for the district of Indiana, and libel for seizure and condemnation under section 10 of the act was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

(N. J. 110.)

## MISBRANDING OF SIRUP.

(AS TO QUANTITY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of May, 1909, in the district court of the United States for the district of Colorado, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of a misbranded sirup, that is to say, 19 cases labeled, "10 one gallons," 19 cases labeled "16 half-gallons," and 12 cases labeled, "24 quarts," all of which contained cans, the contents of which were less than the quantity stated on the labels on the cases, Farrell & Co., a corporation of Omaha, Nebr., consignors and claimants, having appeared and admitted the allegations of the libel, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

UNITED STATES OF AMERICA, DISTRICT OF COLORADO, *ss.*:

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA, *Libelant*,  
 vs. } No. 2248.  
 FIFTY CASES OF SYRUP.

Now at this day comes The United States of America, by Thomas Ward, jr., United States attorney for the district of Colorado, and Farrell & Company, of Omaha, Nebraska, the claimants and owners of the forty-nine cases of syrup, by Whitehead & Vogl, their attorneys, and by consent of the parties hereto, it is agreed that all of the allegations contained in the libel heretofore filed in the above entitled cause are true and that the United States is entitled to recover herein.

It is therefore ordered, adjudged, and decreed, that the forty-nine cases of canned syrup heretofore seized by the United States marshal for the district of Colorado under writ of monition and attachment heretofore issued herein, be, and the same are hereby, condemned as being misbranded under the provision of the Food and Drugs Act of June 30, 1906.

And it appearing to the court that the costs of this case have been paid by claimant, Farrell & Company, and the claimant having filed herein a good and sufficient bond to the effect that the said forty-nine cases of canned syrup so seized as aforesaid shall not be sold or otherwise disposed of contrary to the provisions of the Food and Drugs Act of June 30, 1906,

It is further ordered, adjudged, and decreed that the said marshal be, and he is hereby, directed to release the said forty-nine cases of canned syrup and restore the same to the claimant, Farrell & Co.

Done in open court this 29th day of May, A. D. 1909.

By the court.

ROBERT E. LEWIS,  
*Judge.*

The facts in the case were as follows:

On or about March 30, 1909, an inspector of the Department of Agriculture found in the possession of the Lawrence Wardenburg Mercantile Company, Trinidad, Colo., 19 cases (each containing 10 cans) of sirup, labeled and branded "10 one-gallons. Star Syrup. Farrell & Company, Omaha, Neb.;" 19 cases (each containing 16 cans) of sirup, labeled and branded "16 half-gallons. Star Syrup. Farrell & Company, Omaha, Neb.;" and 12 cases (each containing 24 cans) of sirup, labeled and branded "24 quarts. Star Syrup. Farrell & Company, Omaha, Neb." These goods had been shipped to the Lawrence Wardenburg Mercantile Company by Farrell & Co., the manufacturers, from Omaha, Nebr., during September, 1908, and January, 1909. A number of the cans were procured and subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and it was found that the cans from the cases labeled "10 one-gallons" contained 0.723 gallon, making a shortage of 27.7 per cent; that those from the cases, labeled "16 half-gallons," contained 0.356 gallon, making a shortage of 28.8 per cent; and those from the cases labeled "24 quarts" contained 0.716 quart, making a shortage of 28.4 per cent. The goods were therefore misbranded within the meaning of section 8 of the act, and on March 30, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 1, 1909.

## NOTICES OF JUDGMENT.

## FOODS.

## N. J. No.

Apple cider. ( <i>See</i> Cider.)		
Apples:		
Bruns Bros. Grocery Co.	87	Feeds. ( <i>See also</i> Oats.)
Michael Doyle & Co.	89	J. W. Biles Co.
Elyria Canning Co.	64	Capital Grain and Mill Co.
Erie Preserving Co.	57	Lawrence and Hamilton Feed Co., Ltd.
Joseph A. Goddard	64	Flour:
C. H. Godfrey & Son	36	The Birkett Mills.
Hulman & Co.	57	The Gardner Mill (Seymour Carter).
Apricots:		Louis Horpel & Co.
Witwer Bros. Co.	92	J. B. A. Kern & Sons.
Beans:		Orville Milling Co.
Bloomington Canning Co.	39	C. Read & Co.
E. G. Dailey Co.	84	Honey:
Muskogee Wholesale Grocer Co.	93	Rogers Holloway Co.
Reedsburg Canning Co.	93	Maple syrup:
Beer:		E. A. Charboneau Co.
Heim Brewing Co.	65	Pacific Coast Syrup Co.
Joseph Fallert Brewing Co.	51	Seudder Syrup Co.
Blackberries:		Western Reserve Syrup Co.
C. H. Godfrey & Son	36	Maple sugar:
J. S. Ogburn & Co.	26, 27	J. M. Beeman & Son.
Buckwheat flour. ( <i>See</i> Flour.)		Meal:
Butter:		S. W. Weilder.
Elgin Creamery Co.	42	J. Lindsay Wells Co.
Fox River Butter Co.	67	Milk:
Cereals:		John Allen.
Acme Mills Co.	105	Frank E. Altemus.
J. W. Biles Co. ( <i>See</i> Feeds.)		Soul Berman.
New England Food Co.	96	C. Deterding.
Cherries:		Andreas Griebler.
Spratlen-Anderson Mercantile Co.	72	Howard Griffith.
Woodscross Canning and Pickling Co.	72	Henry Groger.
Cider, apple:		Charles Harbin.
O. L. Gregory Vinegar Co.	6	Philip Hettenkemer.
Semmes-Kelley Co.	1	Patrick B. Holt.
U. S. Coffee Refining Co.	4	Grover F. Jarboe.
Coffee:		Frank Mace.
Climax Coffee and Baking Powder Co.	55	Julia Poore.
Dayton Spice Mills Co.	49	William A. Sanger.
Orr, Jackson & Co.	50	Albert Schapiro.
Southern Coffee Mills.	50	Blanche D. Siddall.
Corn:		Daniel Strassen.
Bloomington Canning Co.	39	Charles E. Vernon.
Carthage Cannery	95	William W. Whitehead.
Fort Des Moines Canning Co.	52, 53	George A. Wise.
Grand Island Canning Co.	63	Molasses:
F. T. Gunther Grocery Co., Inc.	95	Penick & Ford.
Fred J. Kiesel Co.	38	White, Wilson, Drew Co.
McCord-Collins Mercantile Co.	52, 53	Oats:
Plummer Mercantile Co.	63	Acme Mills Co. ( <i>See</i> Cereals.)
Smith-Yingling Co.	40	Bartlett Commission Co.
Eggs:		Alex C. Harsh & Co.
Samuel Cohen.	103	Interstate Warehouse and Elevator Co.
Golden & Co.	22	Oil:
F. Rogerson Co.	7	Standard Trading Co.
Spencer & Howes.	46	Peaches:
Extract:		J. K. Armsby Co.
Dwight-Edwards Co.	91	Ridenour-Baker Mercantile Co.
Heekin Spice Co.	48, 71	Witwer Bros. Co.
Steinbock & Patrick	14	Pears:
C. B. Woodworth Sons Co.	5	Witwer Bros. Co.

Peas, canned—Continued.	N. J. No.
J. F. Humphreys & Co	90
Reynolds Preserving Co	90
Van Camp Packing Co	70
Plums:	
Witwer Bros. Co	92
Preserves:	
William Numsen and Son	108
Renovated butter. ( <i>See Butter.</i> )	
Rye flour. ( <i>See Flour.</i> )	
Sirup:	
Corn Products Refining Co	100
Farrell & Co	110
D. R. Wilder Mfg. Co	106
Tomatoes:	
Henkel-Duke Mercantile Co	97
Sears and Nichols Co	85
Ridenour-Baker-Bragdon Co	77
Riverdale Canning Co	97
Tomato ketchup:	
S. J. Van Lil Co	79
Vanilla extract. ( <i>See Extract.</i> )	
N. J. No.	
Vinegar:	
Baltimore Manufacturing Co. (Spence-Nunnemaker Co.)	61
Baltimore Manufacturing Co. (E. A. Saunders' Sons Co.)	62
Oklahoma Supply Co	23
Price and Lucas Cider and Vinegar Co	73
Water:	
Arlington Bottling Co.	94
Basic Lithia water	59
Great Bear Spring Co.	41
Charles Meisezahl Manufacturing Co.	78
Otis H. Wood	59
Whisky:	
Louisiana Distillery Co., Ltd.	68
C. Person's Sons	15
Chas. H. Ross & Co	45
Wine:	
A. Schmidt, jr. and Bros. Wine Co.	83
Sweet Valley Wine Co. (John G. Dorn)	83

## DRUGS.

Blackburn's Cascara, etc.:	N. J. No.
Victory Remedy Co	32
Cocain hydrochlorid:	
J. Roach Abell	10
Harper's Cuforhedake Brane-food:	
Robert N. Harper	25
Mme. Yale's Skin Food, etc.:	
S. Kann and Sons Co	82
Maude Yale Bishop Wilson	82
Muco Solvent:	
Gatlin Drug Co	54
Muco Solvent—Continued.	
N. J. No.	
Muco-Solvent Co	54
Pine, concentrated oil of:	
Globe Pharmaceutical Co	30
Saltpetre:	
L. Sonneborn Sons	86
Sartoin Skin Food:	
Globe Pharmaceutical Co	16
Sulphur, liquid:	
Hancock Liquid Sulphur Co	29

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

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NOTICE OF JUDGMENT NO. 111, FOOD AND DRUGS ACT.

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## MISBRANDING OF CATSUP.

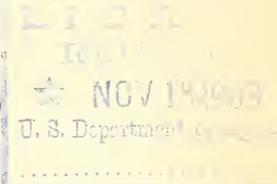
(AS TO AMOUNT OF BENZOATE OF SODA PRESENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 8th day of December, 1908, in the district court of the United States for the district of North Dakota, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of 65 gallon jugs and 85 one-gallon tin packages of "Bordeaux Brand" tomato catsup which were misbranded in this, that the labels falsely stated the amount of preservative contained in the product, the Van Camp Packing Company, of Indianapolis, Ind., manufacturer and shipper, having appeared as claimant and filed its answer admitting the allegations of the libel, and the cause having come on for a hearing, the court rendered an order in substance and in form as follows:

At a session of the district court of the United States for the district of North Dakota, continued and held pursuant to adjournment, at the United States court room, in the city of Fargo, on the 8th day of December, 1908, the Honorable Charles F. Amidon being present and presiding in said court, the following, among other proceedings, were had and done to-wit:

UNITED STATES OF AMERICA, *Plaintiff,*  
vs.65 GALLON JUGS OF CATSUP LABELED "BORDEAUX  
Brand" and 85 One-Gallon Tin Packages of Tomato  
Catsup Labeled "Bordeaux Brand," *Defendant.*

(55)



This cause came on to be heard at this term upon the information and claim and answer thereto filed by the Van Camp Packing Company, and the court having found the allegations of the information to be true, it is now ordered and adjudged that the property described in said information be condemned.

And the said claimant having offered in its answer to pay the costs of these proceedings and to file a bond as provided by the act of June 30, 1906, it is ordered that upon the payment of said costs and the filing of a good and sufficient bond in the sum of \$500, to be approved by the United States attorney, the property described in the information and seized by the marshal under the

process of this court, be surrendered and delivered by said marshal to the claim-ant, the Van Camp Packing Company.

The facts in the case were as follows:

On or about September 18, 1908, E. F. Ladd, food commissioner of North Dakota, acting under authorization conferred on him by the Secretary of the United States Department of Agriculture, in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act, found in the possession of Park, Grant & Morris, at Fargo, N. Dak., 65 one-gallon jugs and 85 one-gallon tin packages of a food product labeled, "Bordeaux Brand Tomato Catsup, Prepared by the Van Camp Packing Co., Indianapolis, Ind., U. S. A. Ingredients Tomatoes, Sugar, Vinegar, Salt, Cloves, Allspice, Cayenne Pepper, Onions & 1/10 of 1% of Benzoate of Soda. Net Wt. about 14 oz." A sample of this product was analyzed by Doctor Ladd and found to contain 0.205 per cent of benzoate of soda. The Van Camp Packing Company having been afforded an opportunity to show any fault or error in the aforesaid analysis and they having failed to do so, the facts were reported to the United States attorney for the district of North Dakota, and libel for seizure and condemnation under section 10 of the act was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

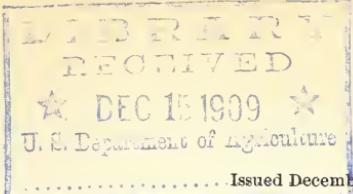
Approved:

WILLIS L. MOORE,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., November 5, 1909.

A1—72

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Notice of Judgment Nos. 112-116.

..... Issued December 15, 1909.

# United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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## NOTICE OF JUDGMENT NOS. 112-116, FOOD AND DRUGS ACT.

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- 112. Misbranding of a drug product. (Quinine-whisky.)
- 113. Misbranding of flour. (Underweight.)
- 114. Misbranding of canned apricots. (Underweight.)
- 115. Adulteration and misbranding of lemon extract. (Imitation colored with a coal-tar dye.)
- 116. Adulteration and misbranding of stock feed. (Low protein and fat content.)

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(N. J. 112.)

### MISBRANDING OF A DRUG PRODUCT.

(QUININE-WHISKY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 10 Cases of "Quinine-Whisky," a proceeding of libel lately pending in the district court of the United States for the northern district of Illinois under the provisions of section 10 of the aforesaid act for seizure and condemnation of said product, wherein the Quinine-Whisky Company, a corporation of Louisville, Ky., was claimant. The said cases of quinine-whisky were misbranded within the meaning of section 8 of the act, as fully set forth in the libel, of which the following is a copy:

UNITED STATES OF AMERICA, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, ss:

Edwin W. Sims, attorney for the United States for the northern district aforesaid, who for the United States in this behalf prosecutes for the said United States, exhibits this his libel and complaint against divers cases of quinine-whisky in the possession of Stein Brothers, at 20 and 22 Michigan avenue, or in the possession of the Chicago, Indianapolis and Louisville Railway Company, in the city of Chicago, in the said division and district, consigned by the Quinine-Whisky Company at Louisville, in the State of Kentucky, in care of the Illinois Central and Chicago, Indianapolis and Louisville Railroad companies, the exact number of cases of quinine-whisky in the said consignment consisting of ten cases, each case containing one dozen bottles; and thereupon the said attorney of the United States, who prosecutes as aforesaid for the said United States, does allege, articulately propound, and give your honor to understand and be informed as follows, to wit:

1. That the said divers cases of quinine-whisky, to wit, to the number of ten, each containing one dozen bottles, contain a drug which is misbranded in violation of

section 8, paragraph 2, of the Food and Drugs Act, 34 Statutes at Large, 769; that is to say, the label upon the wooden case and the cardboard carton (the latter enclosing each one of the twelve bottles in the aforesaid wooden case) bears no statement of the alcoholic content of the aforesaid product, to wit, quinine-whisky, and the aforesaid product, to wit, quinine-whisky, is further misbranded in that the label attached to each bottle declares that the medicine contains pure quinine, one and one-fourth grains per ounce, whereas in truth and in fact the medicine contains only one twenty-fourth grains of alkaloidal material to the ounce, this material not being entirely quinine but mixed alkaloids and cinchona bark. And the aforesaid product, to wit, quinine-whisky, is further misbranded in violation of section 8 of the Food and Drugs Act in that the label bears misleading statements, among which are the following:

"The greatest preventative and remedy for all malarial complaints ever offered," "Prevents and cures a cold," "The greatest tonic for convalescents from typhus and typhoid fever," "An infallible cure for la grippe;" and the aforesaid product, to wit, the ten cases of quinine-whisky composing the said shipment, were transported from one State to another State for sale, to wit, from Louisville, in the State of Kentucky, to Chicago, in the State of Illinois, and is subject to libel for confiscation under section 10 of the Food and Drugs Act, 34 Statutes at Large, 771.

2. That the said divers cases of quinine-whisky composing the said shipment as above set forth, and being in the possession of Stein Brothers, 20 and 22 Michigan avenue, or in the possession of the Chicago, Indianapolis and Louisville Railway Company, Chicago, in the State of Illinois, in the said division and district, are now in the northern district of Illinois within the jurisdiction of this court.

And the said attorney for the said United States who prosecutes as aforesaid for the said United States, says that all and singular the premises are true; that the said divers cases of quinine-whisky are now within the jurisdiction of the said United States and of this court; wherefore he for the said United States prays that a writ of attachment and monition in due form of law, according to the course of this court in such cases, may issue against the said divers cases of quinine-whisky, and that all persons having any interest in the same may be cited to appear and answer all and singular the matters aforesaid, and that the said divers cases of quinine-whisky may be seized for confiscation by process of libel for condemnation, and that if such article is condemned as being misbranded within the meaning of the Food and Drugs Act, that the same may be disposed of by destruction or sale, or otherwise disposed of as the court may direct, and the proceeds thereof, if sold, less the legal costs and charges, may be paid into the Treasury of the United States.

EDWIN W. SIMS,  
*United States Attorney.*

The aforesaid claimant having appeared in court and filed its answer admitting the misbranding, and the case having come on for final hearing on January 14, 1909, upon motion of the United States attorney the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

UNITED STATES OF AMERICA  
vs.  
TEN CASES OF QUININE-WHISKY. } No. 10142.

This cause coming on to be heard upon motion of Edwin W. Sims, United States attorney for the northern district of Illinois, the answer of the claimant, the Quinine-Whisky Company, heretofore filed, is ordered to stand as the answer of the claimant to the information filed in this case, said claimant waiving a trial by jury.

The court finds that it has jurisdiction of this cause and of the respective parties thereto, and being fully advised in the premises and having heard the arguments of counsel, finds that ten cases of quinine-whisky, each case containing one dozen bottles, were invoiced and consigned by the consignor, to wit, the Quinine-Whisky Company, and were shipped by the aforesaid Quinine-Whisky Company from their place of business at Louisville, in the State of Kentucky, to Stein Brothers, in the city of Chicago, in the eastern division of the northern district of Illinois, and were seized while in the possession of the Chicago, Indianapolis and Louisville Railroad Company, at Chicago, in the division and district aforesaid;

And the court further finds that the said ten cases of quinine-whisky composing the aforesaid shipment were misbranded within the terms of section 8 of the Food and Drugs Act of the United States, 34 Statutes at Large, 769; that is to say, that the labels appearing upon the cases, cardboard cartons, and bottles containing the aforesaid drug, to wit, quinine-whisky, bear statements which are false and misleading in that the labels attached to each bottle declare that the drug contains pure quinine, one and one-fourth grains per ounce, whereas in truth and in fact the drug does not contain quinine in the quantity stated upon the label; and that it is further misbranded in that the labels upon the wooden cases and cardboard cartons, the latter enclosing each one of the twelve bottles in the aforesaid cases, bear no statement of the alcoholic content of the aforesaid product.

And the court further finds that the aforesaid drug, to wit, quinine-whisky, was further misbranded in that the labels attached to the cases, cartons, and bottles containing the said drug bore statements concerning the qualities and ingredients of the aforesaid product which were false and misleading and calculated to deceive purchasers, all of which false and misleading statements are set out more fully in the information filed in this case;

And the court further finds that by reason of this misbranding, admitted by the answer of the claimant filed in this case, the shipment of ten cases of quinine-whisky composing the shipment aforesaid was seized by the United States and is now in the possession of the United States marshal, at Chicago, in the northern district of Illinois, awaiting final adjudication of the issue by this honorable court;

And it further appearing that the Quinine-Whisky Company, of Louisville, Ky., have, by their answer filed in this case, admitted the misbranding of the aforesaid shipment in the manner and method set out in the information filed in this case:

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the United States marshal for the northern district of Illinois, be, and the same is hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, adjudged, and decreed, however, that upon the payment of all the costs of this libel proceeding and the execution and delivery of a good and sufficient bond by the claimant and surety, to be approved by this court, in the sum of one thousand (\$1,000.00) dollars, conditioned that said claimant, his agent or attorneys, shall not dispose of the said quinine-whisky composing the said shipment in violation of the act of June 30, 1906, known as the "Food and Drugs Act" of the United States, or against the laws of any State, upon the order of this court the quinine-whisky now in the possession of the United States be surrendered to the claimant.

KENESAW M. LANDIS,  
United States District Judge.

The facts in the case were as follows:

On or about December 16, 1908, an inspector of the Department of Agriculture found in the possession of Stein Brothers, 20 Michigan avenue, Chicago, Ill., a shipment of ten cases of "quinine-whisky" which had been shipped to the said Stein Brothers on December 16,

1908, by the Quinine-Whisky Company, from Louisville, Ky. A sample of this preparation was collected by the inspector and analyzed in the Bureau of Chemistry, United States Department of Agriculture, and it was found that the preparation was misbranded within the meaning of section 8 of the act, as stated in the libel hereinbefore referred to and set out in full.

On December 19, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the northern district of Illinois, who forthwith filed a libel for the seizure and condemnation of said goods, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 20, 1909.

(N. J. 113.)

#### MISBRANDING OF FLOUR.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 300 One-quarter Barrels of Flour, 20 One-half Barrels of Flour, and 120 One-eighth Barrels of Flour, a proceeding of libel under section 10 of the act in the district court of the United States for the eastern district of North Carolina for seizure and condemnation of said flour for the reason that it was misbranded as to weight. The flour had been manufactured and shipped by the Riverton Mills Company, of Riverton, Va., to W. C. Brewer & Co., of Wake Forest, N. C. W. C. Brewer & Co., consignees and claimants, having appeared and admitted all the allegations of the libel, and the cause having come on for hearing on March 29, 1909, the court adjudged the goods misbranded and entered an order in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, EASTERN DISTRICT OF NORTH CAROLINA, RALEIGH DIVISION.

United States of America *vs.* Three Hundred One-quarter Barrels of Flour; Twenty One-half Barrels of Flour; One hundred and twenty One-eighth Barrels of Flour, consigned by Riverton Mills Company, Riverton, Va., to W. C. Brewer & Co., Wake Forest, N. C., February 6, 1909, via the Norfolk and Western Railroad in Norfolk and Western car No. 61139, said flour being contained in sacks which according to size are

labeled one-eighth barrels, one-quarter barrels, and one-half barrels, indicating contents to be respectively twenty-four and one-half pounds, forty-nine pounds, and ninety-eight pounds; actual average weight of entire shipment was for the one-eighth barrel sacks twenty-four pounds; for the one-quarter barrel sacks forty-eight pounds; for the one-half barrel sacks ninety-six and two-tenths pounds.

This cause coming on to be heard at a special session of the United States district and circuit court on the 29th day of March, 1909, presided over by Honorable James E. Boyd, and it being represented to the court that the claimants, W. C. Brewer & Co., Wake Forest, N. C., admit all the allegations contained in the libel filed in this cause and are willing that the said property and flour seized in this case be condemned as having violated section 8 of the Pure Food and Drugs Act of June 30, 1906;

And it further appearing to the court that the marshal of this district has returned as having seized of the flour and property above described 25  $\frac{1}{4}$ -barrel sacks flour; 11  $\frac{1}{4}$ -barrel sacks flour; 4  $\frac{1}{8}$ -barrel sacks flour, and 10  $\frac{1}{2}$ -barrel sacks flour, and that he has the same now in his possession;

It is now ordered and adjudged that the said flour now in the possession of the marshal of this district is condemned as being misbranded in violation of section 8 of the Pure Food and Drugs Act of June 30, 1906.

It is further ordered that the plaintiff recover of the defendant, W. C. Brewer & Co., the cost of this libel proceeding, to be taxed by the clerk of the court.

It is further ordered and adjudged that on the payment of the said cost of this proceeding and the execution of bond, Form B, as provided for in the sum of one hundred and fifty dollars, that the marshal is then directed by the court to turn over to the said claimant the flour seized in these proceedings and now in his possession.

March 29, 1909.

JAS. E. BOYD, *U. S. Judge.*

The facts in the case were as follows:

On or about March 15, 1909, an inspector of the Department of Agriculture found in the possession of W. C. Brewer & Co., Wake Forest, N. C., 300 one-fourth barrels, 20 one-half barrels, and 120 one-eighth barrels of flour, which had been shipped to the said W. C. Brewer & Co. by the Riverton Mills Company, Riverton, Va., on February 6, 1909, the sacks containing the same being labeled, " $\frac{1}{8}$  barrel," " $\frac{1}{4}$  barrel," and " $\frac{1}{2}$  barrel." The inspector weighed the entire shipment and found the average weight of the one-eighth barrel sacks to be 24 pounds, of the one-fourth barrel sacks, 48 pounds, and of the one-half barrel sacks, 96.2 pounds, making a total shortage of approximately 2 per cent. The Secretary of Agriculture on March 15, 1909, reported these facts to the United States attorney for the eastern district of North Carolina, who filed a libel for seizure and condemnation of the flour under section 10 of the act, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 20, 1909.

## MISBRANDING OF CANNED APRICOTS.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 100 Cases of Canned Apricots, a proceeding of libel under section 10 of the aforesaid act, lately pending in the district court of the United States for the western district of Washington, for the seizure and condemnation of said goods. The apricots were misbranded in this, that each case was labeled and branded, "One Doz. Gallons Bayside Brand California Pie Apricots, Bayside Canning Company, Alviso, California," whereas in fact, each of the individual packages contained therein was 25 per cent short of 1 gallon in measure. These goods had been shipped by the J. K. Armsby Company, a corporation of San Francisco, Cal., to the Washington Grocery Company, Bellingham, Wash., on April 27, 1909. The J. K. Armsby Company having appeared as claimants and admitted the allegations of the libel, and the cause having come on for a hearing on May 20, 1909, the court adjudged the goods misbranded and rendered its decree in substance and in form as follows:

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, NORTHERN DIVISION.

UNITED STATES OF AMERICA, *Libelant*,  
*v.* } No. 3957.  
100 CASES OF CANNED APRICOTS, *Respondent*.}

## DECREE OF FORFEITURE AND CONDEMNATION.

Now on this 20th day of May, 1909, comes the United States by Elmer E. Todd, United States attorney for the western district of Washington, and J. K. Armsby Company, a California corporation, claimant and owner of the 100 cases of canned apricots herein, by Ariss, Campbell & Gault, their Seattle representatives, and said claimants admit the allegations contained in the libel herein filed to be true, and that the United States is entitled to recover herein;

Wherefore, it is ordered, adjudged, and decreed that the said 100 cases of canned apricots, with the contents as aforesaid, be, and they are hereby, declared to be misbranded in violation of the Food and Drugs Act of June 30, 1906, as charged in said libel;

And it is further ordered, that the said 100 cases of canned apricots, with the contents as aforesaid, be, and they are hereby, condemned and forfeited, as provided for in said act of June 30, 1906.

It is provided, however, that upon the payment of all the costs in this proceeding, including all court, clerk's, and marshal's costs and the cost of storage and all other costs and expenses incident to or contracted in this proceeding, and the execution and delivery by the said J. K. Armsby Company, a corporation, to the libelant of a good and sufficient bond in the penalty of two hundred and fifty dollars (\$250), conditioned that the said 100 cases of canned apricots, with the contents as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of said act of June 30, 1906, or

to the laws of any State, Territory, district, or insular possession, said bond to be approved by the United States attorney for the western district of Washington, that said marshal shall redeliver the said 100 cases of canned apricots, with such of their contents as they now contain or may contain at the time of such delivery, to the J. K. Armsby Company, a corporation, in lieu of the retention and sale thereof, the said bond to be filed herein, if at all, on or before the first day of June, 1909.

C. H. HANFORD, *Judge.*

The facts in the case were as follows:

On or about May 6, 1909, an inspector of the Department of Agriculture located in the possession of the Washington Grocery Company, Bellingham, Wash., 100 cases (each containing 12 packages) of apricots labeled "One dozen gallons Bayside Brand California Pie Apricots, Bayside Canning Company, Alviso, California." A representative number of packages were measured in the Bureau of Chemistry, United States Department of Agriculture, and found to contain only three-fourths of 1 gallon each.

The facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Washington on May 6, 1909, and a libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 20, 1909.

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(N. J. 115.)

#### **ADULTERATION AND MISBRANDING OF LEMON EXTRACT.**

(IMITATION COLORED WITH A COAL-TAR DYE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of June, 1909, in the United States circuit court for the eastern district of Louisiana, in a criminal prosecution by the United States against the Nicholas Burke Company (Limited), a corporation of New Orleans, La., for violation of section 2 of the aforesaid act, in shipping and delivering for shipment from Louisiana to Mississippi an adulterated and misbranded lemon extract, the said Nicholas Burke Company (Limited) entered a plea of guilty, whereupon the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On February 21, 1908, an inspector of the United States Department of Agriculture purchased from the firm of Van Cleave Brothers,

Ocean Springs, Miss., a sample of lemon extract labeled, "Momus N. B. Co. (Ltd.), Double Extract Lemon for Cakes, Pastry, etc. Nicholas Burke Co. (Ltd.), New Orleans, La.," which had been manufactured and shipped by the Nicholas Burke Company (Limited), from New Orleans, La., to the said firm on or about June 3, 1907. The sample was subjected to analysis in the Bureau of Chemistry of the United States Department of Agriculture, and the following results obtained and stated:

Specific gravity at 15.5° C.....	0.99153
Alcohol by volume (per cent).....	7.64
Solids, in extract (gram per 100 cc.).....	.87
Lemon oil by polarization.....	None.
Lemon oil by precipitation.....	None.
Citral (per cent by weight).....	.02
Color, coal tar dye.	

In the opinion of the Department of Agriculture, lemon extract is the flavoring extract prepared from oil of lemon or from lemon peel, or both, and contains not less than 5 per cent by volume of lemon oil. It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated because it contained little or no lemon oil and because it was an imitation extract colored with a coal-tar dye to give it the color of genuine lemon extract, thereby concealing inferiority; and misbranded because labeled "Double Extract Lemon," whereas it contains little or no lemon extract.

On March 23, 1909, the facts were reported by the Secretary of Agriculture to the Attorney-General and the case was referred to the United States attorney for the eastern district of Louisiana, who filed information against the Nicholas Burke Company (Limited), with the results hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 20, 1909.

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(N. J. 116.)

#### ADULTERATION AND MISBRANDING OF STOCK FEED.

(LOW PROTEIN AND FAT CONTENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on

the 3d day of June, 1909, in the district court of the United States for the western district of Michigan, in a prosecution by the United States against the Michigan Starch Company, a corporation of Traverse City, Mich., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Michigan to New York a misbranded stock feed, the case having come on for trial and the said Michigan Starch Company having appeared through its attorney and entered a plea of guilty, the court imposed upon it a fine of \$50.

The facts in the case were as follows:

On February 13, 1908, an inspector of the Department of Agriculture purchased from Hill & Watson, Amsterdam, N. Y., a sample of stock feed labeled and branded, "100 lbs. Michigan Gluten Feed, 25% protein, 3% fat. Michigan Starch Co., Traverse City, Michigan." The sample was part of a consignment shipped by the Michigan Starch Company from Traverse City, Mich., to John A. Becker, Albany, N. Y., and subsequently sold by him to Hill & Watson. This sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and the following results obtained and stated:

	Per cent.
Moisture.....	7.45
Fat.....	2.89
Protein.....	18.25

It was apparent that the article was misbranded within the meaning of section 8 of the act, because it was labeled, "25% protein, 3% fat," whereas the analysis showed that it contained only 18.25 per cent of protein and 2.89 per cent of fat.

The Secretary of Agriculture having afforded the manufacturer an opportunity to show any fault or error in the findings of the analyst, and it having failed to do so, the facts were, on January 11, 1909, reported to the Attorney-General and the case referred to the United States attorney for the western district of Michigan, who filed an information against the said Michigan Starch Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

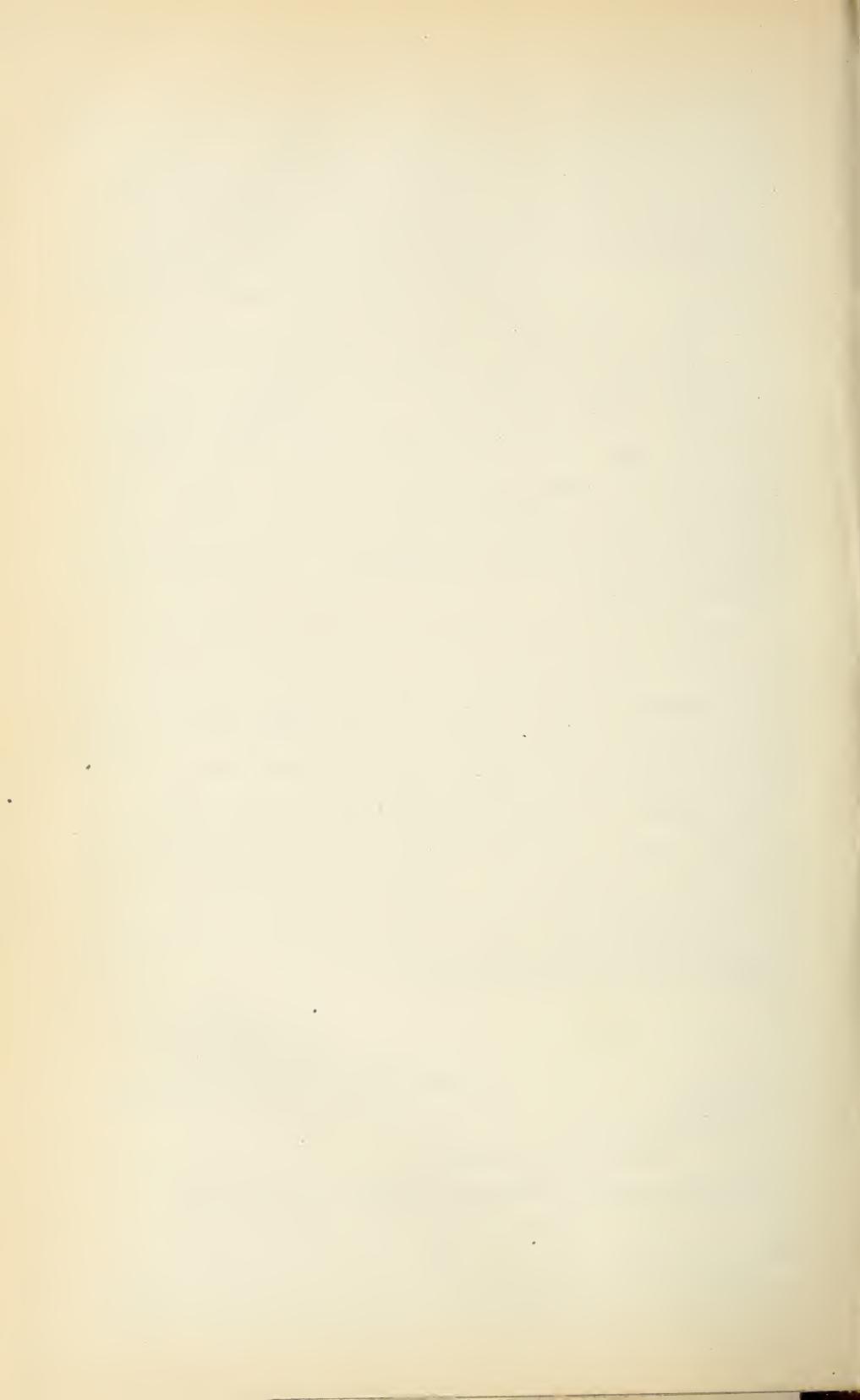
*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 20, 1909.







# United States Department of Agriculture,

OFFICE OF THE SECRETARY,  
BOARD OF FOOD AND DRUG INSPECTION.

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## NOTICE OF JUDGMENT NOS. 117-118, FOOD AND DRUGS ACT.

117. Adulteration and misbranding of stock feed. (Low protein and fat content.)  
 118. Adulteration and misbranding of buckwheat flour. (As to presence of wheat and corn products.)

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(N. J. 117.)

### ADULTERATION AND MISBRANDING OF STOCK FEED.

(LOW PROTEIN AND FAT CONTENT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of June, 1909, in the district court of the United States for the western district of Michigan, in a prosecution by the United States against the Michigan Starch Company, a corporation of Traverse City, Mich., for violation of section 2 of the aforesaid act, in shipping and delivering for shipment from Michigan to New York a misbranded stock feed, the case having come on for trial and the said Michigan Starch Company having appeared through its attorney and entered a plea of guilty, the court imposed upon it a fine of \$50.

The facts in the case were as follows:

On January 30, 1908, an inspector of the Department of Agriculture purchased from J. H. Peters' Sons, Albany, N. Y., a sample of stock feed labeled and branded "Michigan Starch Co., Traverse City, Michigan, 100 lbs., Gluten Feed, 25% Protein, 3% Fat." The sample was part of a consignment shipped by the Michigan Starch Company from Traverse City, Mich., to John A. Becker, at Albany, N. Y., and subsequently sold by him to J. H. Peters' Sons. This sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and the following results obtained and stated:

	Per cent.
Moisture -----	9.32
Fat -----	2.48
Protein -----	23.31
16358-09	

It was apparent that the article was misbranded within the meaning of section 8 of the act, because it was labeled "25 per cent protein, 3 per cent fat," whereas the analysis showed that it contained only 23.31 per cent of protein and 2.48 per cent of fat.

The Secretary of Agriculture having afforded the manufacturer an opportunity to show any fault or error in the findings of the analyst, and it having failed to do so, the facts were, on January 11, 1909, reported to the Attorney-General and the case referred to the United States attorney for the western district of Michigan, who filed an information against the said Michigan Starch Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved.

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 24, 1909.

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(N. J. 118.)

#### ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

(AS TO PRESENCE OF WHEAT AND CORN PRODUCTS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 8th day of June, 1909, in the district court of the United States for the southern district of Illinois, in a prosecution by the United States against Guy C. Ela and Catherine Scott, doing business as a copartnership under the name of the Ela Manufacturing Company, at Bloomington, Ill., for violation of section 2 of the aforesaid act, in shipping and delivering for shipment from Illinois to Ohio an adulterated and misbranded flour, that is to say, a flour labeled "Buckwheat Compound Flour," whereas it was a mixture of buckwheat, wheat flour, and corn meal, the said Guy C. Ela having appeared in court and waived trial by jury, the court found for the United States and imposed upon him a fine of \$25 and costs, and in so imposing the fine orally stated that the word "compound" indicated that there were two or more different substances present and that these different substances could not be known under one single name, such as buckwheat, and that, therefore, the label should state, in addition to the word "compound," what the different substances were that entered into the compound in order that the purchaser might know what he was buying.

The facts in the case were as follows:

On March 27, 1908, an inspector of the Department of Agriculture purchased from M. M. Terry & Co., Dayton, Ohio, a sample of a food product, the package containing which was labeled on one side "O. P. T. Self-Rising Buckwheat Compound Flour" and on the other side "Compound Buckwheat O. P. T. Flour. Ela Manufacturing Company, Bloomington, Ill." This sample was part of a shipment made by the Ela Manufacturing Company from Bloomington, Ill., to M. M. Terry & Co., on or about February 27, 1908. The sample was examined in the Bureau of Chemistry, Department of Agriculture, and found to contain a considerable quantity of wheat and corn products. It was apparent, therefore, that the article was both adulterated and misbranded; adulterated because wheat and corn products had been substituted in part for the buckwheat flour, and misbranded because the packages containing it were labeled in such manner as to indicate that they contained a compound of buckwheat flour, whereas a large quantity of wheat and corn flour had been mixed and packed with the same.

The Secretary of Agriculture having, on October 5, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid examination, and they having failed to do so, the facts were reported to the Attorney-General on January 25, 1909, and the case referred to the United States attorney for the southern district of Illinois, who filed an information against the said Ela Manufacturing Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., November 24, 1909.





Notice of Judgment Nos. 119-122.

Issued December 21, 1909.

## United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

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### NOTICE OF JUDGMENT NOS. 119-122, FOOD AND DRUGS ACT.

119. Adulteration and misbranding of a stock feed (Globe flour middlings). (As to presence of ground corncobs.)
120. Adulteration and misbranding of pepper. (As to presence of wheat meal, seedcoats, coconut shells, etc.)
121. Misbranding of mineral water. (As to quantity.)
122. Adulteration and misbranding of strawberry extract. (An imitation colored with a coal-tar dye.)

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(N. J. 119.)

#### ADULTERATION AND MISBRANDING OF A STOCK FEED (GLOBE FLOUR MIDDLEDINGS).

(AS TO PRESENCE OF GROUND CORNCOBS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 20,000 pounds of Globe flour middlings, a proceeding of libel under section 10 of the act, in the district court of the United States for the middle district of Pennsylvania, for seizure and condemnation of the said middlings for the reason that they were adulterated and misbranded, in this, that each sack containing the same was labeled and branded, "100 lbs. Globe Flour Middlings, Protein 11 to 13%, Fat 3 to 4%, Crude Fiber 13-15, Globe Elevator Company, Buffalo, N. Y.," whereas, in fact, they also contained about 10 per cent of ground corncobs. E. P. Daily, consignee and claimant, having appeared and the cause having come on for hearing on March 27, 1909, upon an

agreed statement of facts, the court adjudged the goods adulterated and misbranded, and entered an order in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

THE UNITED STATES OF AMERICA, *Libelant*,  
 vs. } February term, 1909.  
 20,000 LBS. OF GLOBE FLOUR MIDLINGS.

And now, March 27th, 1909, it appearing to the court, the United States, by Alonzo T. Searle, assistant United States attorney, and E. P. Daily, the claimant, and owner of the property seized herein, by his attorney, John F. Scragg, esq., consenting thereto, that under the process issued in this cause sixty-four full sacks of 100 pounds each of Globe flour middlings, designed as food for animals, and each of said sacks being labeled and branded as follows, to wit, "100 lbs. Globe Flour Middlings, Protein 11 to 13%, Fat 3 to 4%, crude fiber 13-15, Globe Elevator Company, Buffalo, N. Y." were seized by the United States marshal in the possession of E. P. Daily, merchant, in the village of Genesee, in Genesee Township, Potter County, in the State of Pennsylvania; that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein—that is to say, for the reason that said sacks containing said Globe flour middlings were misbranded and contents adulterated, the same appearing to deceive and mislead the purchaser.

And it further appearing by like consent that the said E. P. Daily has agreed that an order may be entered at once condemning and confiscating the said property to the United States;

It is therefore ordered, adjudged, and decreed that the said sixty-four full sacks of 100 lbs. each of Globe flour middlings above described, now in the possession of the marshal of the court, be, and the same are hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said E. P. Daily of the costs of this proceeding, and the execution and delivery of a good and sufficient bond in the sum of one thousand dollars, to be filed with the clerk in this cause, conditioned that said sixty-four full sacks of 100 lbs. each of Globe flour middlings shall not be sold or otherwise disposed of, contrary to the provisions of the act of June 30, 1906, commonly known as the Pure Food and Drugs Act, or contrary to the laws of the State of Pennsylvania, then the marshal of this court is hereby directed to deliver said sixty-four full sacks of 100 lbs. each of Globe flour middlings to the said E. P. Daily or his agents,

And in the event that said E. P. Daily shall fail to pay the costs of this proceeding, or fail to give bond as above provided, within fifteen days from the entry of this order, then the marshal of this court is directed, after first properly branding said sixty-four full sacks of 100 lbs. each of Globe flour middlings, to advertise the same for sale in some newspaper published in Potter County, Pennsylvania, for a period of fifteen days, and sell the same at the store of E. P. Daily, in Genesee, Potter County, Penna., to the highest bidder.

R. W. ARCHBALD,  
 U. S. District Judge.

The facts in the case were as follows:

On or about February 23, 1909, an inspector of the Department of Agriculture found at Buffalo, N. Y., a consignment of stock feed

awaiting shipment to Genesee, Pa., contained in sacks of 100 pounds, each sack bearing a tag label reading "100 lbs. Globe Flour middlings, Protein 11 to 13%, Fat 3 to 4%, Crude Fiber 13-15, Globe Elevator Company, Buffalo, N. Y." A sample taken from this consignment was examined in the Bureau of Chemistry, United States Department of Agriculture, and found to contain approximately 10 per cent of ground corncobs. The product was, therefore, adulterated in that ground corncobs had been substituted in part for said Globe middlings, and misbranded in that the sacks containing the same were labeled so as to indicate that the contents were made entirely from wheat, whereas they also contained about 10 per cent of ground corncobs. This consignment was later found by the inspector in the possession of E. P. Daily at Genesee, Pa., and on March 3, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the middle district of Pennsylvania, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 27, 1909.

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(N. J. 120.)

#### ADULTERATION AND MISBRANDING OF PEPPER.

(AS TO PRESENCE OF WHEAT MEAL, SEED COATS, COCONUT SHELLS, ETC.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on April 26, 1909, in the United States district court for the western district of Missouri, in a prosecution by the United States against Long Brothers Grocery Company, a corporation of Kansas City, Mo., for violation of section 2 of the aforesaid act in the shipment and delivery for shipment from Missouri to Kansas of a ground black pepper which was adulterated and misbranded in this, that it contained pepper, wheat meal, tissues of seed, flaxseed meal, buckwheat flour, coconut shells, leguminous seed, and coffee, the said defendant having entered a plea of guilty the court imposed upon it a fine of \$25.

The facts in the case were as follows:

On July 29, 1907, an inspector of the Department of Agriculture purchased in Kansas City, Kans., a sample of a product purporting to be ground pepper. This sample formed part of a shipment made by Long Brothers Grocery Company, Kansas City, Mo., to W. M. Koffler, Kansas City, Kans., on or about May 16, 1907. The sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and it was found that a number of adulterants were present, of which wheat meal and one or two tissues, probably seed coats, were most numerous, and in smaller amounts were flaxseed meal, buckwheat flour, cocoanut shells or tissues of similar character, traces of a leguminous seed, coffee, and red pepper. It was apparent that the article was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated because other substances had been mixed with the pepper so as to reduce, lower, and injuriously affect its quality and strength, and misbranded in that it purported to be ground pepper, when, as a matter of fact, analysis showed that it consisted of ground pepper and a mixture of other substances.

The Secretary of Agriculture having, on December 5, 1907, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the Attorney-General and the case referred to the United States attorney for the western district of Missouri, who filed an information against the said Long Brothers Grocery Company, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 27, 1909.

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(N. J. 121.)

#### MISBRANDING OF MINERAL WATER.

(AS TO QUANTITY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 12th day of June, 1909, in the district court of the United States for the district of Maryland, in a proceeding of libel under section 10

of the aforesaid act, for seizure and condemnation of a misbranded mineral water—that is to say, 34 cases of “Pluto Concentrated Mineral Water,” labeled and branded as containing “2 Doz. Qts.” bottles each, whereas, as a matter of fact, the average content per bottle was 1.6 pints, the French Lick Springs Hotel Company, a corporation of French Lick, Ind., having appeared and filed its answer admitting the allegations of the libel, and the case having come on for a hearing, the court rendered a decree of condemnation in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

UNITED STATES OF AMERICA  
*vs.*  
 THIRTY-FOUR CASES OF MINERAL WATER. }

The claimant in this cause having appeared, filed its answer, and admitted the allegations of the libel, that the articles libeled in this cause were misbranded in that the cases containing the mineral water were branded “Two Dozen Quarts Pluto Concentrated;” the said answer having been considered and due deliberation having been had—

It is now ordered, adjudged, and decreed this twelfth day of June, in the year 1909, by the district court of the United States for the district of Maryland, that the articles libeled in this case are hereby condemned, and the marshal shall destroy the same on the 21st day of June, in the year 1909, or so soon thereafter as the said marshal can conveniently complete such destruction, provided, however, that the said articles shall be delivered to the claimant thereof, if on or before the 19th day of June, in the year 1909, the said claimant shall have paid all the costs of these libel proceedings, and shall have executed to the United States of America a good and sufficient bond in the penal sum of two hundred and fifty (250) dollars, with a surety or sureties to be approved by this court, or the clerk thereof, conditioned that the said articles so libeled shall not be sold or disposed of contrary to the provisions of the Food and Drugs Act of June 30th, 1906, or the laws of any State, Territory, District, or insular possession.

THOS. J. MORRIS,  
*District Judge.*

The facts in the case were as follows:

On or about May 28, 1909, an inspector of the Department of Agriculture discovered in the Camden warehouses at Baltimore, Md., 34 cases (each containing 2 dozen bottles) of mineral water labeled and branded “2 Doz. Qts. Pluto Concentrated Mineral Water.” These cases had been shipped to the Camden warehouses by the French Lick Springs Hotel Company from French Lick, Ind., on or about April 12, 1909. A number of the bottles, examined in the Bureau of Chemistry, Department of Agriculture, proved to be of short measure, containing on the average 1.6 pints each. The water was, therefore, misbranded under section 8 of the act, and on May 28, 1909, the facts were reported by the Secretary of Agriculture to

the United States attorney for the district of Maryland, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 27, 1909.

(N. J. 122.)

### ADULTERATION AND MISBRANDING OF STRAWBERRY EXTRACT.

(AN IMITATION COLORED WITH A COAL-TAR DYE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of June, 1909, in the district court of the United States for the eastern district of Louisiana, in a prosecution against King Brothers, Shilstone & Saint (Limited), a corporation of New Orleans, La., for violation of section 2 of the aforesaid act in shipping and delivering for shipment an adulterated and misbranded strawberry flavoring extract, the said King Brothers, Shilstone & Saint (Limited), having entered a plea of guilty, the court imposed upon it a fine of \$10.

The facts in the case were as follows:

On or about April 6, 1908, an inspector of the United States Department of Agriculture purchased from R. Tuminello, Magnolia, Miss., a sample of strawberry extract labeled "Crown Extract of Strawberry. Prepared by Phoenix Extract Company, New Orleans, La.," which had been manufactured and shipped by King Brothers, Shilstone & Saint (Limited), New Orleans, La., to the said dealer on or about October 18, 1907. The sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and the following results obtained and stated:

Specific gravity (15.5° C.)	0.9952
Solids (grams per 100 cc.)	3.79
Alcohol, by volume (per cent)	15.52
Esters, as amyl acetate (per cent)	.86
Color	Coal-tar dye.

It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated because it was not made from the strawberry fruit, but was an arti-

cle artificially made and colored in imitation of strawberry extract; and misbranded because labeled "Extract of Strawberry," whereas it was an imitation of the genuine strawberry extract and was offered for sale and sold under the distinctive name of the genuine article.

The Secretary of Agriculture having, on October 18, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were reported to the United States attorney for the eastern district of Louisiana, who filed an information against King Brothers, Shilstone & Saint (Limited), with the result hereinbefore stated.

H. W. WILEY,  
F. L. DUNLAP,  
GEO. P. McCABE,

*Board of Food and Drug Inspection.*

Approved:

JAMES WILSON,

*Secretary of Agriculture.*

WASHINGTON, D. C., November 27, 1909.



